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NAVSUP CLAUSE BOOK

**For the Navy Field
Contracting System**

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NAVSUP CLAUSE BOOK

NAVSUP Publication 592

**NAVY DEPARTMENT
Naval Supply Systems Command
5450 Carlisle Pike
Mechanicsburg, PA 17055**

The purpose of this publication is to provide the Navy Field Contracting System with a consolidated listing of approved clauses and to explain the procedures governing clause usage. This publication supersedes the September 1994 Edition and Change 1 to that edition.

Any substantive additions, deletions, or changes to this guidebook may be proposed on enclosure (1) at the end of this publication.

This document may be found electronically on the NAVSUP Home Page in the Naval Logistics Library (www.nll.navsup.navy.mil). Copies of this document may be ordered under COG 01 Stock No. 0530-LP-028-2970.



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Naval Supply Systems Command

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INTRODUCTION

I. Purpose

The purpose of this clause book is to provide the Navy Field Contracting System with a consolidated list of approved clauses and to explain the procedures governing clause usage. The following instructions and procedures implement guidance provided in Navy Acquisition Procedures Supplement (NAPS) Part 5201.304.

This NAVSUP Clause Book supersedes the September, 1994 edition .

II. Background

The last edition of this clause book was published in September, 1994. The 1999 edition incorporates several changes throughout and therefore should be reviewed in its entirety.

III. Format

This book is comprised of three sections. Section I contains general guidance on use of clauses. Section II contains standard component clauses; and Section III contains sample non-standard clauses and sample text.

IV. Maintenance

NAVSUP (SUP 21) is responsible for maintaining the clause book. This includes obtaining approval of or adding new standard component clauses or changes to existing standard component clauses with significant cost or administrative impact. NAVSUP will also update the clause book in response to changes in regulations. If the clause book is found to contain errors or outdated information, activities should complete Enclosure (1) and forward it to the Naval Supply Systems Command (SUP 21), 5450 Carlisle Pike, P.O. Box 2050, Mechanicsburg, PA 17055-0791.

V. Effectivity

The procedures and clauses contained herein are effective immediately.

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SECTION I – GUIDANCE ON CLAUSE USE

A. General Guidance

The following guidance must be read in conjunction with Defense Federal Acquisition Regulation Supplement (DFARS) 201.304 and NAPS 5201.304(4). Number and letter citations herein adhere to the NAPS citations. The clauses in the NAVSUP Clause Book are the only component clauses approved for use by the Navy Field Contracting System (NFCS). Activities are not authorized to use clauses approved for use by other commands (e.g., NAVAIR, NAVSEA, SPAWAR) without prior approval. Requests for such approval should be forwarded to NAVSUP (SUP 21). Management at each activity is encouraged to use the current system for review and approval of solicitations and contracts to ensure that clause control procedures are strictly adhered to. In addition, the use of appropriate clauses will be given special attention during future Procurement Performance Management Assessment Program (PPMAP) reviews.

B. Definitions

The following definitions are integral to the understanding of the clauses and guidance contained herein.

(1) Clause – Includes provisions and means a term or condition of the solicitation/contract of the type set forth in Federal Acquisition Regulation (FAR) Part 52, DFARS Part 252, and NAPS Part 5252. A clause includes everything in parts B through M of a solicitation/contract except:

- (a) The list of supplies or services and prices/costs in Section B;
- (b) Specifications and statements of work in Section C;
- (c) Packaging and marking requirements in Section D;
- (d) Requirements for place of inspection/acceptance in Section E;
- (e) Requirements for time, place and method of delivery or performance in Section F;
- (f) The list of attachments in Section J; and
- (g) Brief statements of strictly administrative, informational nature, without significant cost or administrative impact on offerors or contractors, which the originating activity has determined do not fit the above definition of "clause".

(2) Component – An organization within the same service, but below the agency level (e.g., NAVSUP or any field activity).

(3) Regulation – Any contracting supplement, policy letter, clause book, automated system, or similar regulatory instrument.

(4) Standard Component Clause – A component clause prescribed for use in a component regulation. All approved Navy standard component clauses are referred to as the Navy Clause Baseline.

(5) Non-standard Component Clause – A component clause not prescribed for use in a component regulation.

(6) NAVSUP Standard Component Clause Baseline – All clauses which have been submitted by NAVSUP 02 via Assistant Secretary of Navy, Research, Development and Acquisition, Acquisition Business Management (ASN (RD&A) (ABM) and the Defense Acquisition Regulatory (DAR) Council to the Under Secretary of Defense (Acquisition &

Technology) Defense Procurement (USD(A&T)DP) for approval, and subsequently included in the NAVSUP clause book as standard component clauses.

(7) Text – Information included in the contract not constituting a clause. Text is generally administrative in nature and is, therefore, not subject to clause restrictions. An example of text is information included in the contract to designate Government representatives (such as Contracting Officer's Representatives and Ordering Officers) or to clarify their responsibilities. Samples may be modified as required and are provided in Section III. Text shall not be given a clause number, but are identified as discussed in Section E, Electronic Solicitations.

(8) Change – Permanent modification of a clause for use in an indefinite number of contracts.

(9) Deviation – Modification of a clause for a particular circumstance (includes both individual and class deviations).

(10) “Substantially as follows or substantially the same as” – When used in the prescription and preface of a provision or clause, means that authorization is granted to prepare and utilize a variation of that provision or clause to accommodate requirements that are peculiar to an individual acquisition; provided that the variation includes the salient features of the FAR/DFARS/NAPS provision or clause, and is not inconsistent with the intent, principle, and substance of the FAR/DFARS/NAPS provision or clause or related coverage of the subject matter.

C. Standard Component Clauses

Standard component clauses are the only non-FAR/DFARS/NAPS clauses that are numbered in accordance with NAPS 5252.101(b). Clause numbers are assigned by NAVSUP. The most significant part of each clause number is the FAR part to which the clause corresponds, located in the sixth and seventh positions (e.g., 5252.215-9400). It is important to note that during the approval process some clauses were removed from this book, causing the clause numbers to be out of sequence. Missing numbers are reserved for later use. Numbered clauses must be used as written, unless a deviation or change has been approved at the appropriate level in accordance with NAPS 5201.304(C) or NAPS 5201.402.

Field activities processing new component clauses or changes to existing component clauses that require USD(A&T) approval shall prepare a proposed rule for publication in the Federal Register requesting public comment as shown on Enclosure (2). All requests to process new component clauses or changes must be reviewed by the Office of General Counsel servicing that field activity. The notice shall then be forwarded to NAVSUP (SUP 21) by memorandum signed by the Chief of the Contracting Office. The memorandum shall contain sufficient justification for the proposed clause. If the clause is determined to be necessary and in accordance with current policy, NAVSUP will forward the Federal Register notice to the Office of the Judge Advocate General, the Navy liaison to the Office of the Federal Register.

Federal Register notices must allow a minimum of 30 days for public comment on proposed clauses. (The actual date by which comments must be received will be inserted by the Office of the Federal Register.). Once this period has elapsed, the activity which requested that the clause be published shall prepare written responses to each comment received and forward the comments and responses to NAVSUP (SUP 21). NAVSUP will prepare a case for the DAR Council using the information provided in the activity's original justification. The analyzed public comments will be an attachment to the DAR Case and forwarded via ASN (RDA)(ABM) to the DAR Council.

A copy of each new standard component clause or change to existing clause that does not have a significant increased cost or administrative burden on offerors/contractors and does not require public comment or approval of ASN (RDA)(ABM) or USD(A&T) shall be provided to NAVSUP 21 for numbering in accordance with NAPS 5252.101(b) prior to its use. NAVSUP 21 will forward to ASN (RDA)(ABM) for inclusion in the Navy clause baseline.

In competitive procurements, NAVSUP activities must submit a memorandum to SUP 21 requesting approval of a deviation to a standard component clause that may significantly increase cost or administrative impact on offerors/contractors. NAVSUP 21 will forward the request to the DAR Council Director, via ASN (RDA) (ABM), for approval by USD(A&T)DP. The Head of Contracting Activity may approve other changes to standard component clauses that do not constitute deviations from FAR/DFARS/NAPS.

D Non-standard Component Clauses

Non-standard component clauses are the only clauses not numbered in accordance with the procedures discussed in FAR 1.105-2. The non-standard clauses in Section III provide suggested language only. Clauses or text should be tailored to the specific solicitation and each activity should assign its own number consistent with the format shown in paragraph E, Electronic Solicitations. Sample clauses are not mandatory; they may be modified, as necessary, to fit the needs of a particular procurement without prior approval. Non-standard component clauses which involve a FAR/DFARS/NAPS deviation shall be forwarded to ASN(RD&A)(ABM) via NAVSUP 21 for approval prior to use. Address the use of the non-standard clauses in the business clearance.

E. Electronic Solicitations

Non-standard component clauses in solicitations processed through the Standard Procurement System (SPS) and posted on Navy Electronic Commerce On-Line (NECO) require special handling. Transmission of clauses in full text is neither efficient nor in accordance with the Federal Implementation Convention. Accordingly, to accommodate the EDI requirement, non-standard clauses should be referenced in each solicitation/award and identified in the solicitation using the following format:

UIC + Section of the contract (See UCF) + 3 digit serial number followed by Clause Title + Clause Date + Activity Acronym
Example: N00XXXL001 Clause title (SEP 1999) (FISC XXX)

NOTE: NAVICP non-standard clauses should be identified as
NAVICP + Section of contract (See UCF) + 3 digit serial number followed by Clause Title + Clause Date
Example: NAVICPL001 Clause Title (SEP 1999)

Clauses will be accessible to the reader at the Naval Logistics Library (NLL) website (www.nll.navsup.navy.mil) by clicking on the clause in question. Each activity is responsible for ensuring that the text for all non-standard component clauses/text referenced in electronic solicitations is posted on the NLL prior to release of electronic solicitations. The non-standard clauses/text will be included as a subset of the NAVSUP Clause Book by activity. POC for information on posting clauses/text on the NLL is NAVSUP, Code 35X, 717-605-7549.

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SECTION II
STANDARD CLAUSES

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SECTION II - STANDARD CLAUSES

SUP 5252.204-9400 Reserved

SUP 5252.204-9401 Availability of Unique Data Item Descriptions (UDIDs) And Data Item Descriptions (DIDs) (JAN 1999) Insert the following clause in all solicitations and contracts where a Contract Data Requirements List, DD Form 1423, is included.

AVAILABILITY OF UNIQUE DATA ITEM DESCRIPTIONS (UDIDs) AND DATA ITEM DESCRIPTIONS (DIDs) (JAN 1992).

(a) Ordering Procedures For Acquisition Management System And Data Requirements Control List (AMSDL), DoD 5010.12-L, and DIDs listed therein. The AMSDL and all DIDs and UDIDs listed therein are stocked at the Department of Defense Single Stock Point (DODSSP), Philadelphia, Pennsylvania. A web site for browsing the information is available at WWW.dodssp.daps.mil. Requests for individual DIDs and UDIDs or the AMSDL will be honored from private industry and from individuals. Requests may be by calling the Special Assistance Desk at (215) 697-2179. Requests may also be made by mail or FAX in any form, although it is preferred that the DoD Specification and Standards Requisition, DD Form 1425, be used. Customers will be automatically provided with sufficient blank requisitions for future orders, once an order has been placed. In addition, the DD Form 1425 may be obtained through supply channels of the cognizant military activity. All requests should include the following information:

- (1) Customer number or Commercial And Government Entity (CAGE) number
- (2) Complete mailing address
- (3) Each desired AMSDL, DID or UDID listed by document identifier (e.g., AMSDL should be listed as DoD 5010.12-L)
- (4) The quantity of documents desired (The maximum quantity issued per item is five.)

Mail orders to: DODSSP, Standardization Document Order Desk, Bldg. 4D, 700 Robbins Avenue Philadelphia, PA 19111-5094. Fax orders to: 215-697-1462.

(b) Ordering Complete Sets of DIDs. Complete sets of DIDs or UDIDs are available at a cost of \$150.00 per set. Cut-off dates for orders are 1 April and 1 October.

(c) Subscriptions. A subscription service is available to private industry for a cost of \$25.00 per year. Upon payment of the subscription fee, the subscriber will receive one copy of any new or revised unrestricted and unclassified DID or UDID for a one year period after the effective subscription date. The AMSDL is included with this subscription. Requests for subscriptions must be accompanied by a check or money order in the above amount payable to the Treasurer of the United States. Requests may be mailed to DODSSP, Subscription Service Desk, 700 Robbins Avenue, Bldg 4D, Philadelphia, PA 19111-5094.

(d) Availability of canceled DIDs. DODSSP supplies only the current version of DIDs. Superseded or canceled documents must be requested through the procurement or contracting officer of the military activity citing the need for the document.

(End of clause)

SUP 5252.210-9400 Reserved

SUP 5252.213-9401 Notice to Prospective Suppliers (APR 1999) Insert the following provision in simplified acquisitions subject to the Navy Red/Yellow/Green Program.

NOTICE TO PROSPECTIVE SUPPLIERS (APR 1999)

(a) This procurement is subject to the Navy's Red/Yellow/Green (RYG) Program. RYG is authorized by the Assistant Secretary of the Navy (Research, Development and Acquisition) for use in the acquisition of supplies and services used to build, maintain, and operate the Fleet.

(b) The Government reserves the right to award to the supplier whose quote represents the best value to the Government. As such, the basis for award will include an evaluation of each supplier's past performance history for the Federal Supply Class(s) or Service Code(s) (FSCs) of the supplies and services being purchased. The price to be considered in determining best value will be the evaluated price after application of Technical Evaluation Adjustments (TEAs).

(c) The procedures described in the clause entitled, "Additional Evaluation Factor for Consideration of Past Performance – Navy Red/Yellow/Green Program (APR 1999)", will be used to assist in determining the best value for the Government.

(End of Provision)

SUP 5252.213-9402 Additional Evaluation Factor for Consideration of Past Performance-Navy Red/Yellow/Green Program (APR 1999) Insert the following provision in simplified acquisitions subject to the Red/Yellow/Green program.

ADDITIONAL EVALUATION FACTOR FOR CONSIDERATION OF PAST PERFORMANCE-NAVY RED/YELLOW/GREEN PROGRAM (APR 1999)

(a) This procurement is subject to the Navy's Red/Yellow/Green (RYG) Program, authorized by the Assistant Secretary of the Navy (Research, Development and Acquisition) for use by participating activities during the acquisition of supplies and services used to build, maintain, and operate the Fleet.

(b) The purpose of RYG is to assist contracting personnel during source selection to determine the best value for the Government. The program uses accumulated supplier past performance data to classify each supplier's performance by Federal Supply Class(es) or Service Code(s) (FSCs) as either red (high risk), yellow (moderate risk), green (low risk), or neutral (no risk established).

(c) To assist in source selection a monetary assessment in the form of a Technical Evaluation Adjustment (TEA) is added to each supplier's quote having a red or yellow classification for the FSC involved. The dollar amount of the red or yellow TEA assessment is based on the cost to the Government of effecting additional actions required to assure performance by a supplier with an unsatisfactory performance history for the FSCs involved. No TEA is assessed for a supplier having either a green or a neutral FSC RYG classification. For purposes of the RYG program, a neutral classification is assigned to suppliers who are first time quoters to the Government for the FSC(s) involved, suppliers otherwise having no past performance data in the RYG database for the FSC(s) involved, and suppliers whose past performance data in the RYG database for the FSC(s) involved are over three years old. After consideration of any other pertinent, price-related factors (e.g., transportation charges, first article testing, discount terms), the adjusted price becomes the basis for determining award. A supplier's FSC RYG classification may change over time as new or revised performance data becomes available.

(d) RYG classifications are summarized as follows:

(1) Green is low risk. No performance assurance actions are considered necessary. No TEA will be assessed.

(2) Yellow is moderate risk. Additional performance assuring actions are considered necessary. A TEA will be applied to the prospective supplier's price to reflect the Government's estimated additional costs.

(3) Red is high risk. Significant additional performance assurance requirements are considered necessary. A TEA will be applied to the prospective supplier's price to

reflect the Government's estimated additional costs.

(4) Neutral is no risk established. No TEA is assessed; nevertheless, additional performance assurance requirements may be considered necessary to assure quality and on-time delivery.

(e) RYG classifications for all applicable FSC(s) are established monthly for each supplier and provided to them. Suppliers may address questions about the program or their FSC RYG classifications to the Naval Sea Logistics Center (NLSC) Portsmouth Detachment, Federal Building, Room 400, 80 Daniel Street, Portsmouth, NH 03801-3884, telephone 603-431-9460, ext. 464, FAX 603-431-9464. Suppliers may also access their individual FSC RYG classifications through the automated vendor access program. To obtain automated access, written request must be submitted on company letterhead to NLSC at the above address. The request must include the requester's name, title, company name, address, telephone number and Contractor and Government Entity (CAGE) code. The CAGE code is mandatory. In response, NSLC will provide each supplier, without charge, with an individual password, all required software, and information on accessing its individual data.

(End of Provision)

SUP 5252.215-9400 Certification of Previous Submission And Approval Of Contractor Generic Plans And Documents (JAN 1992) Insert the following provision in solicitations that require submission of plans as part of the DD Forms 1423, Contract Data Requirements Lists. The contracting officer shall insert the following: (*) the issuing activity name and address; (**) the required plan title and Data Item Description Identification number from the DD Form 1423, for example, "Configuration Management Plan, DI-E-1100A." Plans marked with an asterisk (*) may require tailoring for a specific procurement.

**CERTIFICATION OF PREVIOUS SUBMISSION AND APPROVAL OF CONTRACTOR
GENERIC PLANS AND DOCUMENTS (JAN 1992)**

(a) ____*____ has established an optional program whereby contractors may submit for approval certain commonly used plans prepared for acquisitions by companies frequently contracting with ____*. Once approved no costs need be proposed or bid unless the generic plan requires modification with a supplement or replacement by another plan peculiar to the acquisition. See Section L for submission instructions.

(b) The offeror shall certify if generic plan(s) have already been submitted, approved, and are on file at ____*____ by providing a date after the following:

| PLAN TITLE | DATA ITEM DESCRIPTION IDENTIFICATION NUMBER | DATE OF APPROVAL OR SUBMISSION |
|------------|--|--------------------------------------|
| ____**____ | ____**____ | ____**____ |
| ____**____ | ____**____ | ____**____ |

(c) The offeror shall also certify in the following blank if the quality assurance program plans listed above has been approved by the contract administration office cognizant of the contractor's facility per FAR 42.302(a)(38): _____

(d) If for any reason, the above certifications cannot be verified from ____*____ general files, the Contracting Officer shall notify the offeror of the discrepancy and allow a period of five (5) working days to submit or resubmit the plans or documentation.

(End of Provision)

SUP 5252.215-9401 Evaluation Of First Article Testing (JAN 1992) Insert the following provision in solicitations which include a first article approval clause, unless it is known that first article approval will not be waived. First article includes pre-production models, initial production samples, test samples, first lots, pilot lots, and pilot models. The contracting officer

shall insert the following: (*) clause number and title; (**) check indicating whether the Government or the contractor will be responsible for first article testing; (***) estimated cost; and (****) the words "will" or "will not".

EVALUATION OF FIRST ARTICLE TESTING (JAN 1992)

(a) Offerors are advised that clause _____* requires first article testing. This requirement may be waived by the Contracting Officer when supplies identical or similar to those called for have previously been delivered by the offeror and accepted by the Government. Therefore, offerors can submit alternative offers, one including testing and approval and the other excluding testing and approval. If the Government waives the requirement for first article unit(s), test plans, testing and test report(s) for eligible offerors, the prices set forth in Section B under first article will not be included in the total contract price or any resulting contract. In addition, all provisions relating to first article testing will be deleted from the resulting contract.

(b) Offerors shall identify these identical or similar supplies by the contract number, agency, contract award date, and contract delivery date.

| CONTRACT NUMBER | AGENCY | CONTRACT AWARD DATE | CONTRACT DELIVERY DATE | COPY OF FIRST ARTICLE TEST APPROVAL/ CERTIFICATION INCLUDED HEREIN |
|--------------------|--------|------------------------|------------------------------|--|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

(c) ** The Government is responsible for first article testing under this contract. The cost to the Government of this testing will be a factor in the evaluation of offers, as it will be added to the offers requiring first article testing. The estimated cost of this testing is _____.***

*** The Contractor is responsible for first article testing under this contract.

(d) The approved first article _____**** serves as a manufacturing standard.

(e) Earlier delivery, if required in case of waiver of first article, shall not be a factor in the evaluation for award.

(f) The prices for first articles and first article tests in relation to production quantities shall not be materially unbalanced, if first article test items or tests are to be separately priced.

(End of Provision)

SUP 5252.215-9402 Reserved

SUP 5252.215-9403 Reserved

SUP 5252.216-9400 Unilateral Unpriced Order (OCT 1995) Insert the following clause in solicitations and contracts requiring delivery or task orders.

UNILATERAL UNPRICED ORDER (OCT 1995)

(a) When the Government determines, in circumstances of emergency or exigency, that the need for specific supplies or services is unusually urgent, the Ordering Officer may issue a unilateral unpriced order requiring the Contractor to provide the supplies or services specified.

(b) The unilateral unpriced order shall specify the estimated cost and fee and the desired delivery schedule for the work being ordered. The Government's desired delivery shall apply unless the Ordering Officer receives written notification from the Contractor within 15 days

after receipt of the order that the proposed delivery schedule is not acceptable. Such notification shall propose an alternative delivery schedule. The Contractor shall submit its cost proposal within 30 days after receipt of the order. The Government has no obligation to pay for the supplies or services ordered until the actual price and delivery schedule have been negotiated. In no event shall the costs incurred exceed the estimated cost of the order before the proposal is submitted.

(c) The Contractor shall include in its proposal a statement of costs incurred and an estimate of costs expected to complete the work. Data supporting the accuracy and reliability of the cost estimate should also be included. After submission of the Contractor's cost proposal and supporting data, the Contractor and the Ordering Officer shall negotiate a bilateral modification to the original order finalizing the price and delivery schedule, which will be specified in a bilateral modification to the original order.

(d) Should the Ordering Officer and the Contractor be unable to reach an agreement as to the terms of the order, the conflict shall be referred to the Contracting Officer who shall issue such direction as is required by the circumstances. If a bilateral agreement is not negotiated within 60 days after submission of the Contractor's cost proposal, the Contracting Officer will issue a modification to the unilateral unpriced order establishing the Government's total estimated cost for the order. This estimate will remain in effect until a final price is established in a bilateral modification to the order.

(e) Failure to arrive at an agreement shall be considered a dispute in accordance with the Disputes clause.

(End of Clause)

SUP 5252.216-9401 Placing and Processing of Orders (June 1994) Insert the following clause in all Basic Ordering Agreements for spare and repair parts. (*)The contracting officer shall insert the name of the activity establishing the BOA.

PLACING AND PROCESSING OF ORDERS (JUNE 1994)

(a) Ordering Period. The government, from time to time during the period commencing on the date of this Basic Ordering Agreement (BOA) and continuing for three (3) years (hereinafter called the "ordering period"), may place orders for supplies to be delivered hereunder. Each order placed under this Agreement shall be in accordance with this Agreement.

(b) Authorized Ordering Activity. A Contracting Officer of _____* may place orders under this Agreement. Only such Contracting Officer has the authority to make changes to the provisions of this BOA.

(c) Ordering Procedures. Orders issued hereunder may be either priced or unpriced. Each order issued hereunder shall constitute a contract. The negotiated ceiling price for an unpriced order issued hereunder is the maximum not-to-exceed price for each order. Unpriced orders will be definitized within 180 days after issuance of the order or prior to the date that more than 50 percent of the ceiling price of the order is expended whichever occurs earlier. The Contractor agrees to submit a firm fixed price proposal to meet this - definitization schedule.

(d) Content of Orders. Orders placed hereunder will be prepared on a DD Form 1155 and will at a minimum include the following if applicable:

- (1) The order number, date, and the number of this Agreement.
- (2) Citation of the negotiation authority under FAR 6.302.
- (3) Appropriation and accounting data and special invoicing instructions.
- (4) Special shipping instructions, place of delivery, place of inspection, DoD Priority designator and surveillance Criticality designator.
- (5) Defense Order Rating certified under defense Priority Authorization System Regulation (15 CFR 700).
- (6) Descriptions and the part numbers of the particular articles to be furnished, the quantity of each, and the stock number, if available.

(7) The model designation of the end unit for which the parts ordered applies, if available.

(8) For priced orders, the agreed upon delivery schedules, firm unit prices, firm extended amounts and a total firm price.

(9) For unpriced orders, a desired delivery schedule and a total ceiling price.

(10) Orders for change pages/revisions to existing Technical Manuals, or new Technical Manuals will include Technical Manual Contract Requirements (TCMRs) citing the equipment and changes to be covered by the publications ordered, the manuals involved, description and specifications, delivery and packing, instructions for transmittal of negatives and retention of reproducible copies and negatives.

(11) A DD form 1423 setting forth the data ordered.

(End of Clause)

SUP 5252.216-9402 Oral Orders (Indefinite Delivery Contracts) (JAN 1999) Insert the following clause in all solicitations and contracts for indefinite delivery contracts that permit the usage of oral orders. Do not use with labor hour/time and material contracts.

ORAL ORDERS (INDEFINITE DELIVERY CONTRACTS) (JAN 1999)

Oral orders may be placed provided the following conditions are complied with:

(a) No oral order will exceed \$100,000 or such lesser amount as may be specified elsewhere in the schedule of this contract.

(b) The Contractor will furnish with each shipment a delivery ticket, in triplicate, showing: contract number, order number under the contract; date order was placed, name and title of person placing order; an itemized listing of supplies or services furnished; unit price and extension of each item; and, delivery or performance date.

(c) Invoices for supplies or services furnished in response to oral orders will be accompanied with a received copy of each related delivery ticket.

(d) The ordering activity shall designate in writing the names of individuals authorized to place oral orders and will furnish a copy thereof to the Contractor.

(e) Written confirmation of oral orders will be issued as a means of documenting the oral order within 10 working days or oral orders will be confirmed twice a month, in writing, when more than one oral order is consolidated for a single confirmation.

(End of Clause)

SUP 5252.216-9403 Written Orders (Indefinite Delivery Contracts) (JAN 1992) Insert the following clause in fixed price indefinite delivery type contracts.

WRITTEN ORDERS (INDEFINITE DELIVERY CONTRACTS) (JAN 1992)

Written orders (on DD Form 1155) will contain the following information consistent with the terms of the contract:

(a) Date of order

(b) Contract number and order number.

(c) Item number and description, quantity ordered, unit price and contract price.

(d) Delivery or performance date.

(e) Place of delivery or performing (including consignee).

(f) Packaging, packing, and shipping instructions, if required.

(g) Accounting and appropriation data.

(h) Any other pertinent information.

(End of Clause)

SUP 5252.217-9400 Provisioned Item Orders (JAN 1999) Insert the following clause in solicitations and contracts when provisioned items are included in the schedule. (*) The contracting officer shall insert the contract line item to which this clause applies.

PROVISIONED ITEM ORDERS (JAN 1992)

Applicable to item(s) _____*

(a) The Contractor shall furnish such support (spare/repair) parts as may be ordered by the Government in accordance with the procedures specified herein. Notwithstanding any contrary provision for interim release of selected parts specified elsewhere in the provisioning procedures incorporated in this contract, the Contractor shall not commence work on these support parts prior to the placement of orders by the Contracting Officer or the Administrative Contracting Officer (ACO).

(b) Orders (or revisions thereto) for support parts shall be issued by the Contracting Officer in the form of either bilateral or unilateral modifications to this contract. The order shall identify the support parts and the quantities, packaging and consignment instructions for the parts to be furnished. Lists of provisioned support parts to be furnished shall be made contract exhibits assigned the exhibit identifiers designated in the Schedule of Supplies/Services for the applicable contract line item. To the maximum extent possible, these modifications will be bilateral and include definite price and delivery terms.

(c) When the Contracting Officer determines that insufficient time exists for the parties to reach agreement on price and delivery terms, the Contracting Officer may unilaterally issue an unpriced order which includes a monetary limitation and desired delivery schedule for the support parts ordered.

(1) The Contractor shall commence work upon receipt of an unpriced order issued hereunder. If at any time the Contractor has reason to believe that the price (estimated cost and fee) of an order placed hereunder will exceed the monetary limitation established by the Contracting Officer in a unilateral modification, the Contractor shall so notify the Contracting Officer in writing and propose an appropriate increase. Within 30 days of such notice, the Contracting Officer will either (i) increase the monetary limitation for the unpriced order by issuance of an additional contract modification, or (ii) instruct the Contractor how and to what extent the work shall be continued; provided, however, that in no event shall the Contractor proceed with work on a unilateral modification beyond the point where his cost plus a reasonable profit (fee) will exceed the monetary limitation.

(2) Within 60 days of the unpriced order issue date, or, prior to completion of 20% the required work (whichever occurs earlier), the Contractor shall submit to the Contracting Officer a proposal to definitize the price and delivery terms for the support parts. The estimated prices contained in the unpriced order shall not be used for billing purposes for support parts delivered under the order. The unpriced order shall be definitized by a bilateral modification to be prepared by the Contracting Officer within 180 days after agreement on price and delivery schedule or prior to completion of 40% of the required work (whichever occurs earlier). Failure to reach agreement on price for any unpriced order within the time frame specified above shall be considered a dispute within the meaning of the Disputes clause.

(3) Pending the establishment of firm prices by a bilateral modification, the maximum liability of the Government shall not exceed the monetary limitation contained in the unpriced order.

(4) The Contractor shall propose and segregate costs for each unpriced order.

(d) Increases in quantities of support parts ordered shall be accomplished by issuance of a separate provisioned item order (contract modification) by the Contracting Officer in accordance with these provisions. Quantity decreases or cancellations of support parts ordered shall be accomplished by issuance of a separate provisioned item order pursuant to the Termination for Convenience of the Government clause.

(e) MIL-PRF-49506, Logistics Management Information is the Military Standard which applies to the support parts as may be ordered by the Government. In addition to the Military

Standard, further instructions regarding ordering of support parts may be included in the Provisioning Requirements Statement (DD Form 1949-2) incorporated in this contract.

(f) Orders for support parts placed in accordance with these provisions may be issued by the Government within 180 days after delivery of the last end article to be supplied under this contract.

(End of Clause)

SUP 5252.217-9401 Reserved

SUP 5252.217-9402 Reserved

SUP 5252.217-9403 Reserved

SUP 5252.222-9400 Reserved

SUP 5252.222-9401 Reserved

SUP 5252.223-9400 Certification Of Lead-Free Water Fountains (JAN 1992) Insert the following provision in solicitations for drinking water fountains. Change the words "Offeror" and "contract" for "Bidder" or "Quoter" and "purchase order" as applicable.

CERTIFICATION OF LEAD-FREE WATER FOUNTAINS (JAN 1992)

The offeror certifies that the water fountain(s) to be provided under this contract are lead-free in accordance with Public Law 100-572, Lead Contamination Control Act of 1988.

(End of Provision)

SUP 5252.225-9400 Reserved

SUP 5252.225-9401 Japanese Conciliation Clause (JAN 1992) Insert the following clause in solicitations and contracts with contractors in Japan. This clause implements Article XVIII, paragraph 10 of the Status of Forces Agreement.

JAPANESE CONCILIATION CLAUSE (JAN 1992)

(a) Except as otherwise provided in this contract any disagreement arising under this contract which is not resolved by the parties to this contract may be submitted to the US-Japan Joint Committee for conciliation in accordance with paragraph 10, Article XVIII, of the Status of Forces Agreement under Article VI of the Treaty of Mutual Cooperation and Security between Japan and the United States of America. Request by the Contractor for conciliation shall be made in accordance with the procedures provided herein.

(b) In the event the Contractor desires conciliation after the decision of the Contracting Officer has been served upon him, he will first file his appeal from such findings of fact within the time limits described therein before filing request for conciliation with the Joint Committee and then request for appellate authority under the clause of this contract entitled Disputes to suspend its action on his appeal until such time as the Joint Committee has had an opportunity for effecting conciliation.

(c) The request for conciliation will be submitted by the Contractor through the nearest local Japanese Defense Facilities Administration Bureau to the Contract Conciliation Panel of the Joint Committee. Upon the filing of the request with the Joint Committee, the Contractor will immediately notify the Contracting Officer in writing that the request for conciliation has been filed.

(d) In the event the disagreement submitted to the Joint Committee under subparagraph (b) above has been received through conciliation, it will be the responsibility of the Contractor to notify the appellate authority designated in the clause of this contract, entitled Disputes, of the settlement of the dispute and to withdraw his appeal.

(e) In the event the Contractor who has submitted a request for conciliation to the Joint Committee under subparagraph (b) above desires, notwithstanding the pending request for conciliation, that action by the appropriate authority under the clause of this contract entitled Disputes be resumed on his appeal, it is his responsibility to so request the said authority in writing. The Joint Committee shall be immediately informed by the Contractor of his action taken hereunder.

(f) No request for conciliation can be submitted to the Joint Committee in the case of a dispute upon which the final decision of the appropriate authority under the clause of this contract entitled Disputes has been rendered. Pending the hearing of conciliation panel the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision. The provisions of this clause shall not prejudice any right which the parties to the contract may have to file a civil suit.

(End of Clause)

SUP 5252.225-9402 Japanese Price Adjustment Procedures (JAN 1992) Insert the following clause in solicitations and contracts for stevedoring services and pilotage services under which the prices/rates are set by Japanese law or regulation. This clause amplifies the mechanics of the revision of prices. It does not change the basic clause, but establishes a basic negotiation position consistent with Japanese law.

JAPANESE PRICE ADJUSTMENT PROCEDURES (JAN 1992)

The following price adjustment procedures are applicable to this contract. In the event of conflict between this clause and other clauses of this contract, this clause shall govern. The percentage change in rates under this contract shall conform to the percentage change in applicable tariff rates for like commodities approved by the Minister of Transport, Government of Japan. Where there are no like commodities, the percentage change in rates under this contract shall conform to the average percentage change for all commodities. The effective date of rate changes under this contract shall correspond to the effective date of changes in the applicable tariff rates.

(End of Clause)

SUP 5252.225-9403 Japanese Liability - Pilotage Services (JAN 1992) Insert the following clause in solicitations and contracts for pilotage services subject to General Maritime and Japanese laws.

JAPANESE LIABILITY – PILOTAGE SERVICES (JAN 1992)

(a) This contract shall neither be construed as, nor give rise to, a personal services contract. The Contractor and its agents shall have the benefit of all exemptions from and limitations of liability to which a licensed pilot is entitled under the applicable Japanese Laws.

(b) The Contractor shall assign in the performance of this contract only pilots duly qualified and licensed under applicable laws and regulations of Japan.

(c) In all instances where a duly licensed pilot belonging to Japan Pilots' Association is assigned, the Contractor, its agents or employees or pilot shall not be liable for damage or loss sustained by the vessel being assisted, its master and crew, and/or any third party, even though such damage or loss resulted from the ordinary negligence of the pilot in the performance of his services; the Contractor's liability is limited to the due pilotage fee. Any

responsibility for the amount of damage or loss in excess of the amount of such pilotage fee paid or due the Contractor for the voyage concerned shall be the responsibility of the master or the vessel owner, provided however, that the liability of the master or vessel owner concerned shall not exceed the amount to which the owner is entitled to limit his liability to the third party under applicable law governing the limitation of vessel owner's liability.

(d) The provisions of paragraph (c) above do not apply to personal liability of the pilot resulting from his wrongful acts or omissions or his grossly negligent acts or omissions.

(e) In all instances where any vessel being handled by the Contractor under this contract sustains damage or in any instance where the Contractor is involved in any incident resulting in damage to any other vessel or property, death or bodily injury, the Contractor shall secure a report from the licensed pilot aboard the vessel. The Contractor shall submit such report in triplicate to the Contracting Officer within 24 hours following the damage, death or injury. The report shall cover all facts, damages including, the extent of damages and a list of individuals sustaining bodily injury or killed as a result of the incident.

(End of Clause)

SUP 5252.225-9404 Japanese Liability - Tug and Towing Services (JAN 1992) Insert the following clause in solicitations and contracts for tug and towing services subject to General Maritime and Japanese laws. Insert Ordering Officer for Contracting Officer when a D type contract is contemplated.

JAPANESE LIABILITY - TUG AND TOWING SERVICES (JAN 1992)

(a) This contract shall neither be construed as, nor give rise to, a personal services contract. The Contractor and the owners, operators, managers, agents and charterers of any tug utilized to perform under this contract shall have the benefit of all exemptions from and limitations of liability to which the owner of a vessel is entitled under the applicable Japanese Laws.

(b) The Contractor may be liable for the loss of or damage to any vessel, equipment, or other property owned or under the control of the United States or other third party, including bodily injury and death, caused by the contractor's use of an unseaworthy vessel or unsuitable equipment or gear to perform this contract, if the contractor did not fully inform the Contracting Officer of the unseaworthiness of the vessel or the unsuitability of the equipment or gear to perform this contract and obtain approval of the Contracting Officer to use such vessel, equipment or gear.

(c) The Contractor shall not be liable as outlined above, if the Contracting Officer specifically orders the Contractor to use an unseaworthy vessel or unsuitable equipment or gear in the performance of the contract. The Contractor also shall not be liable if the vessel, equipment or gear is specifically furnished and provided to the Contractor by the Government for use in the performance of the contract.

(d) The Contractor shall assign in the performance of this contract, only pilots duly qualified and licensed under applicable laws and regulations of Japan.

(e) In all instances where any vessel being handled by the Contractor under this contract sustains damage or is involved in any incident resulting in damage to any other vessel or property, death or bodily injury, the Contractor shall secure a report from the tugboat captain or officer acting as a pilot, or any other licensed pilot aboard the vessel being handled by the Contractor for the Government. The Contractor shall submit such report in triplicate to the Contracting Officer within 24 hours following the damage, death or injury. The report shall cover all facts including, the extent of damages and a list of individuals sustaining bodily injury or killed as a result of the incident.

(End of Clause)

SUP 5252.225-9405 Language and Currency of Offers (JAN 1992) Include the following provision in solicitations when, in the contracting officer's judgment, it is necessary to specify that offers be submitted in the English language and in U.S. currency.

LANGUAGE AND CURRENCY OF OFFERS (JAN 1992)

Offers involving eligible products from designated countries, as defined in FAR 25.401, shall be submitted in the English language and in U.S. dollars.

(End of Provision)

SUP 5252.225-9406 Verification Of "Ship To" And/Or "Notice Of Availability" Address (JAN 1992) Insert the following clause in solicitations and contracts containing Foreign Military Sales (FMS) items.

VERIFICATION OF "SHIP TO" AND/OR "NOTICE OF AVAILABILITY" ADDRESS (JAN 1992)

The Contractor shall submit a request in duplicate to the Transportation Office of the cognizant Contract Administration Office for verification of the "Ship to" address. If the offer/release instructions require a "Notice of Availability" the Contractor shall also request verification of the address to which notification will be made (the 'IAC 3' address). Such requests shall be submitted at least 10 days in advance of (i) the date "Notice of Availability" is to be submitted; or (ii) the actual shipping date, if shipment is to be released automatically.

(End of Clause)

SUP 5252.227-9400 Government-Industry Data Exchange Program (JAN 1999) Insert the following clause in solicitations and contracts for research, design, development, production, logistics support and testing of mission related material, where the contract value is expected to exceed \$500,000. (Mission related material is defined as any material, software or items which must operate properly in systems, subsystems, equipment, facilities that were developed and procured to support U.S. Naval and/or Marine Corp forces.) When this clause is used, solicitations and contracts shall include distribution of data requirements set forth in NAVSUPINST 5200.26 series to GIDEP. "Subcontractor" may be substituted for "Contractor" when appropriate. (Ref: SECNAVINST 5200.20)

GOVERNMENT INDUSTRY DATA EXCHANGE PROGRAM (JAN 1999)

(a) The Contractor shall establish and maintain procedures to enable their full participation in the Government Industry Data Exchange Program (GIDEP), in accordance with the latest revision of S0300-BU-GYD-010. Compliance with this clause shall not relieve the Contractor from complying with any other performance requirements of the contract.

(b) The Contractor shall review and maintain status of GIDEP failure experience and Diminishing Manufacturing Source and Materials Shortages (DMSMS) reports. The Contractor shall notify the procuring activity immediately when items of the Contractors supply or support are impacted.

(c) The Contractor shall prepare GIDEP ALERTs/Problem Advisories, as appropriate, in accordance with the procedures prescribed in S0300-BT-PRO-010, GIDEP Operations Manual, Chapter 7, nonconforming materials which impact production or may have an adverse impact on space or logistics support and repair.

(d) The Contractor shall notify GIDEP of DMSMS items and materials that suppliers/vendors have declared obsolete or discontinued in accordance with S0300-BT-PRO-010, Chapter 11, that may impact production or logistics support of systems, subsystems, software, or equipment.

(e) Appropriate action and notification, as deemed necessary by the Contractor, shall be taken in response to GIDEP Failure Experience and DMSMS reports electronically distributed which may impact the performance of materials procured hereunder.

(f) The Contractor shall maintain a status of GIDEP Failure Experience and DMSMS reports and the benefits accrued thereof, and shall provide an Annual Utilization Report to GIDEP, in accordance with S0300-BT-PRO-010, Chapter 5.

(g) The Contractor shall insert paragraphs (a) through (g) of this clause in all subcontracts hereunder exceeding \$500,000.

(End of Clause)

SUP 5252.227-9401 Notice Regarding the Dissemination of Export-Controlled Technical Data (JAN 1992) Insert the following clause in solicitations and contracts including unclassified technical data or specifications which have limited distribution statements.

NOTICE REGARDING THE DISSEMINATION OF EXPORT-CONTROLLED TECHNICAL DATA (JAN 1992)

(a) Export of information contained herein, which includes release to foreign nationals within the United States, without first obtaining approval or license from the Department of State for items controlled by the International Traffic in Arms Regulations (ITARs), or the Department of Commerce for items controlled by the Export Administration Regulations (EAR), may constitute a violation of law.

(b) In the event that the Contractor violates export laws, the Contractor, its employees, officials or agents are subject to:

(1) Imprisonment and/or imposition of criminal fines; and

(2) Suspension or debarment from future Government contracting actions.

(c) The Government shall not be liable for any use or misuse of the information, technical data or specifications in this contract. It shall not be liable for any patent infringement or contributory patent infringement. The Government neither warrants the adequacy nor the completeness of the information, technical data or specifications in this contract.

(d) The Contractor shall insert paragraphs (a), (b) and (c) of this clause in any subcontract awarded under this contract.

(End of Clause)

SUP 5252.227-9402 Qualified U.S. Contractors for Export-Controlled Technical Data (JAN 1992) Insert the following clause in solicitations and contracts when disclosure of export-controlled technical data is necessary to a procurement. NOTE: Solicitations should include Military Critical Technical Data Agreement (MCT) (DD Form 2345), Registration for Scientific and Technical Information Services (DD Form 1540) and, if MCT is classified, Facility Clearance Register (DD Form 1541). (Forms are downloadable from the following website: <http://web1.whs.osd.mil>.)

QUALIFIED U.S. CONTRACTORS FOR EXPORT-CONTROLLED TECHNICAL DATA (JAN 1992)

(a) By Department of Defense (DoD) Directive 5230.25 (hereinafter referred to as "the Directive"), a program was established to allow Qualified U.S. Contractors to obtain export-controlled technical data under certain conditions. A "Qualified U.S. Contractor" is a private individual or enterprise (hereinafter described as a "U.S. Contractor") that, in accordance with procedures established by the Under Secretary of Defense for Research and Engineering, certifies, as a condition of obtaining export-controlled technical data subject to the Directive from the Department of Defense, that:

(1) The individual who will act as recipient of the export-controlled technical data on behalf of the U.S. Contractor is a U.S. citizen or a person admitted lawfully into the United States for permanent residence and is located in the United States;

(2) Such data are needed to bid or perform on a contract with the Department of Defense, or other U.S. Government agency, or for other legitimate business purposes in which the U.S. Contractor is engaged, or plans to engage. The purpose for which the data are needed shall be described sufficiently in such certification to permit an evaluation of whether subsequent requests for data are related properly to such business purpose.

(3) The U.S. Contractor acknowledges its responsibilities under U.S. export control laws and regulations (including the obligation, under certain circumstances, to obtain an export license prior to the release of technical data within the United States) and agrees that it will not disseminate any export-controlled technical data subject to the Directive in a manner that would violate applicable export control laws and regulations.

(4) The U.S. Contractor also agrees that, unless dissemination is permitted by the Directive, it will not provide access to export-controlled technical data subject to the Directive to persons other than its employees or persons acting on its behalf, without the permission of the DoD component that provided the technical data.

(5) To the best of its knowledge and belief, the U.S. Contractor knows of no person employed by it, or acting on its behalf, who will have access to such data, who is debarred, suspended or otherwise ineligible to perform under U.S. Government contracts; or has violated U.S. export control laws or a certification previously made to the Department of Defense under the provisions of the Directive.

(b) Private individuals or enterprises are certified as Qualified U.S. Contractors by submitting DD Form 2345 to Commander, Defense Logistics Services Center (DLSC), ATTN: DLSC-FEB, Federal Center, Battle Creek, Michigan 49017-3084.

(c) Canadian contractors may be qualified in accordance with the Directive for technical data that do not require a license for export to Canada under section 125.12 of the International Traffic in Arms Regulations and sections 379.4(d) and 379.5(e) of the Export Administration Regulations, by submitting an equivalent certification to the DLSC.

(End of Clause)

SUP 5252.228-9400 Reserved

SUP 5252.229-9400 Taxes - France (JAN 1992) Insert the following clause in solicitations and contracts for supplies and services delivered/performed in France.

TAXES - FRANCE (JAN 1992)

(a) Pursuant to FAR 52.229-6, entitled "Taxes--Foreign Fixed- Price Contracts" listed in Section I, the Contractor warrants that the contract prices, including the prices in subcontracts hereunder, do not include the taxes cited herein or any other taxes from which the United States Government is exempt.

(b) The United States Government is exempted from payment of Taxe Sur La Valeur Ajoutee (TVA), in accordance with the Memorandum of Agreement Between the Government of the United States and the Government of the French Republic Relating to Tax Relief and Expenditures Made in France by the Government of the United States in the interests of the Common Defense. This memorandum of agreement is commonly called the Franco-American Tax Relief Agreement of 13 June 1952. Under this agreement, the entire amount of taxes is exempted and not just the amount actually paid by the vendor.

(c) Goods procured for export from France are exempt from TVA under French law. Examples of such exported goods are those provided directly to U. S. Navy vessels (e.g., fresh provisions, port services) or items consigned to a destination outside of France.

(d) To obtain the U. S. Forces exemption for TVA and the applicable taxes listed below for those goods and services not normally considered exports (e.g., car rental services), the Contractor is responsible for the following:

(1) Retaining copies of the contract, and any delivery orders issued under the contract, with receiving reports and public vouchers for presentation on request by the French Ministry of Finance and Economic Affairs.

(2) Showing on all offers and invoices the following data:

(i) Unit prices inclusive of taxes

(ii) Itemized taxes with details as to those to be exempted

(iii) Unit prices net of taxes (price to be paid by U. S. Government)

(e) In addition to the TVA, purchases by the U. S. Forces are exempt from the following taxes:

(1) Contract Registration Tax

(2) Customs Duties

(End of Clause)

SUP 5252.232-9400 Limitation Of Liability - Incremental Funding (JAN 1992) Insert the following clause in cost reimbursable supply or service contracts which are incrementally funded. The contracting officer shall insert the following: (*) the amount which is currently available for payment; (**) the date through which funds are estimated to cover.

LIMITATION OF LIABILITY - INCREMENTAL FUNDING (JAN 1992)

This contract is incrementally funded and the amount currently available for payment hereunder is limited to _____*_____ inclusive of fee. It is estimated that these funds will cover the cost of performance through _____**. Subject to the provisions of the clause entitled "Limitation of Funds" FAR 52.232-22 of the General Provisions of this contract, no legal liability on the part of the Government for payment in excess of _____*_____ shall arise unless additional funds are made available and are incorporated as a modification to this contract.

(End of Clause)

SUP 5252.232-9401 Segregation of Costs (JAN 1992) Insert the following clause in all Basic Ordering Agreements (BOAs) under which cost reimbursement or ceiling priced orders will be issued.

SEGREGATION OF COSTS (JAN 1992)

The Contractor is required to propose and segregate costs under this agreement by individual delivery order.

(End of Clause)

SUP 5252.233-9400 Reserved

SUP 5252.237-9400 Substitution or Addition of Personnel (JAN 1992) Insert the following clause in cost reimbursement, time and material and labor hour solicitations and contracts when personnel requirements are used as one of the evaluation factors for award. The contracting officer shall insert the following: (*) a check indicating that personnel substituting

shall not occur during the entire performance period; or (**) the number of days, if such time is less than the entire performance period.

SUBSTITUTION OR ADDITION OF PERSONNEL (JAN 1992)

(a) The Contractor agrees to assign to the contract those persons whose resumes, personnel data forms or personnel qualification statements were submitted as required by Section L to fill the requirements of the contract. No substitution or addition of personnel shall be made except in accordance with this clause.

(b) The Contractor agrees that:

 * during the contract performance period

 ___ during the first ** days of the contract performance period

no personnel substitutions will be permitted unless such substitutions are necessitated by an individual's sudden illness, death or termination of employment. In any of these events, the Contractor shall promptly notify the Contracting Officer and provide the information required by paragraph (d) below.

(c) If personnel for whatever reason become unavailable for work under the contract for a continuous period exceeding 30 working days, or are expected to devote substantially less effort to the work than indicated in the proposal, the Contractor shall propose a substitution of such personnel, in accordance with paragraph (d) below.

(d) All proposed substitutions shall be submitted, in writing, to the Contracting Officer at least 15 days (30 days if a security clearance must be obtained) prior to the proposed substitution. Each request shall provide a detailed explanation of the circumstances necessitating the proposed substitution, a complete resume for the proposed substitute and any other information required by the Contracting Officer to approve or disapprove the proposed substitution. All proposed substitutes (no matter when they are proposed during the performance period) shall have qualifications that are equal to or higher than the qualifications of the person being replaced.

(e) In the event a requirement to increase the specified level of effort for a designated labor category, but not the overall level of effort of the contract occurs, the Contractor shall submit to the Contracting Officer a written request for approval to add personnel to the designated labor category. The information required is the same as that required in paragraph (d) above. The additional personnel shall have qualifications greater than or equal to at least one (1) of the individuals proposed for the designated labor category.

(f) The Contracting Officer shall evaluate requests for substitution and addition of personnel and promptly notify the Contractor, in writing, whether the request is approved or disapproved.

(g) If the Contracting Officer determines that suitable and timely replacement of personnel who have been reassigned, terminated or have otherwise become unavailable to perform under the contract is not reasonably forthcoming or that the resultant reduction of productive effort would impair the successful completion of the contract or the delivery order, the contract may be terminated by the Contracting Officer for default or for the convenience of the Government, as appropriate. Alternatively, at the Contracting Officer's discretion, if the Contracting Officer finds the Contractor to be at fault for the condition, he may equitably adjust (downward) the contract price or fixed fee to compensate the Government for any delay, loss or damage as a result of the Contractor's action.

(End of Clause)

SUP 5252.237-9401 Personnel Qualifications (Minimum) (JAN 1992) Insert the following clause in solicitations and contracts for indefinite delivery type contracts requiring employees with specialized technical or professional expertise. (*) The contracting officer shall indicate labor categories and minimum requirements for each. For mess attendant service contracts, replace "Ordering Officer" with "Food Service Officer".

PERSONNEL QUALIFICATIONS (MINIMUM) (JAN 1992)

(a) Personnel assigned to or utilized by the Contractor in the performance of this contract shall, as a minimum, meet the experience, educational, or other background requirements set forth below and shall be fully capable of performing in an efficient, reliable, and professional manner. If the offeror does not identify the labor categories listed below by the same specific title, then a cross-reference list should be provided in the offeror's proposal identifying the difference.

(b) The Government will review resumes of Contractor personnel proposed to be assigned, and if personnel not currently in the employ of Contractor, a written agreement from the potential employee to work will be part of the technical proposal.

(c) If the Ordering Officer questions the qualifications or competence of any person performing under the contract, the burden of proof to sustain that the person is qualified as prescribed herein shall be upon the Contractor.

(d) The Contractor must have the personnel, organization, and administrative control necessary to ensure that the services performed meet all requirements specified in delivery orders. The work history of each Contractor employee shall contain experience directly related to the tasks and functions to be assigned. The Ordering Officer reserves the right to determine if a given work history contains necessary and sufficiently detailed, related experience to reasonably ensure the ability for effective and efficient performance.

Labor Categories

Minimum Requirements

(End of Clause)

SUP 5252.237-9402 Resume Requirements (JUNE 1994) Insert the following provision in competitive solicitations requiring submission of resumes for technical review.

RESUME REQUIREMENTS (JUNE 1994)

The following information must be provided in the cost proposal, by lot or option, for each resume required to be submitted in the technical proposal:

- a. Estimated annual salary;
- b. Total estimated annual hours; and
- c. Total estimated hours to be worked under the contract.

Failure to provide this information may impact the Government's evaluation of Contractors' proposals. If this information is proprietary to subcontractors, it may be provided under separate cover; however, it must be easily identifiable and readily combined with the rest of the proposal.

(End of Provision)

SUP 5252.237-9403 Labor Category Identification (JAN 1992) Insert the following provision in solicitations employing negotiated procedures when labor category (personnel) requirements are stated in the request for proposal.

LABOR CATEGORY IDENTIFICATION (JAN 1992)

The offeror shall submit the following information:

(a) For each category of labor specified by the Government in Section B, the Offeror shall identify the corresponding company labor category/categories.

(b) For each company labor category identified, the Offeror shall define and specify below the minimum qualifications/experience elements which will be used by the Contractor as a basis for assigning personnel for work under the contract.

| <u>Company Labor Categories</u> | <u>Minimum Qualifications</u> |
|---------------------------------|-------------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

(End of Provision)

SUP 5252.237-9404 Reserved

SUP 5252.237-9405 Identification of Contracted Advisory and Assistance Services (JAN 1992) Insert the following provision in solicitations for contracted advisory and assistance services.

IDENTIFICATION OF CONTRACTED ADVISORY AND ASSISTANCE SERVICES (JAN 1992).

The Offeror shall indicate below whether, when, and to what other Government agency it has provided similar services:

- () Has not provided similar services.
- () Has provided similar services as noted below:

(End of Provision)

SUP 5252.237-9406 Inspection of Site (JAN 1992). Insert the following provision in solicitations involving performance of services on a Government installation. Use with FAR 52.237-1, "Site Visit". The contracting officer shall insert the following: (*) the site location; (**) the name, code and telephone number of a point of contact.

INSPECTION OF SITE (JAN 1992)

Offerors or quoters are invited to inspect the _____* where services are to be performed. For appointment call _____* *.
(End of Provision)

SUP 5252.239-9400 Reserved

SUP 5252.239.9401 Reserved

SUP 5252.239.9402 Reserved

SUP 5252.239-9403 Reserved

SUP 5252.239-9404 Reserved

SUP 5252.239-9405 Reserved

SUP 5252.239-9406 Reserved

SUP 5252.239-9407 Reserved

SUP 5252.239-9408 Reserved

SUP 5252.239-9409 Reserved

SUP 5252.239-9410 Reserved

SUP 5252.239-9411 Reserved

SUP 5252.239-9412 Reserved

SUP 5252.239-9413 Reserved

SUP 5252.239-9414 Reserved

SUP 5252.239-9415 Reserved

SUP 5252.239-9416 Reserved

SUP 5252.239-9417 Reserved

SUP 5252.242-9400 DD Form 375 (Production Progress Reports) (JAN 1992) Insert the following clause in solicitations and contracts when production progress reporting is required.

DD FORM 375 (PRODUCTION PROGRESS REPORTS) (JAN 1992)

(a) The Contractor shall prepare and submit DD Form 375 (Production Progress Report) for the following contract items: _____

(b) The forms shall be mailed on or before the _____ day of each month. Forms shall be distributed as set forth in paragraph (c).

(c) DD Form 375 (Production Progress Reports) shall be distributed as follows
(NOTE: Electronic reporting is the preferred method. If electronic distribution is feasible, each addressee will receive one copy of the report.)

| <u>Addressee</u> | <u>No. of Copies</u> |
|---------------------|----------------------|
| Contracting Officer | |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

EMAIL: _____

Administrative Contracting Officer (if not the same as above)

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

EMAIL: _____

Other

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

EMAIL: _____

- (d) The report shall contain the following information:
(1) The problem, actual or potential and its cause;

- (2) Items and quantities affected;
- (3) When the delinquency started or will start;
- (4) Actions taken to overcome the delinquency;
- (5) Estimated recovery date; and/or
- (6) Proposed schedule revision.

(End of Clause)

ALTERNATE I. For Explosive Ordnance Disposal actions requiring production progress reporting, add the following sites to the distribution list in paragraph (c). Also add paragraph (d).

| <u>Activity</u> | <u>No. of Copies</u> |
|---|----------------------|
| Commanding Officer Naval Explosive Ordnance Disposal Technology Center, Code Indian Head, Md. 20640-5070 | |
| Commander Naval Sea Systems Command, Code 62Z12 2531 Jefferson Davis Hwy Arlington, VA 22242-5160 | |

(d) The Commanding Officer, Naval Explosive Ordnance Disposal Technology Center, Indian Head, Md. 20640-5070 is hereby designated as the Status Control Activity.
(End of Clause)

SUP 5252.242-9401 Reserved

SUP 5252.242-9402 Technical Direction (JAN 1992) Insert the following clause in solicitations and contracts when the contracting officer has determined that additional technical clarification or direction may be required. * Insert the name, title and/or code of the individual authorized to orally amend technical direction letters.

TECHNICAL DIRECTION (JAN 1992)

(a) When necessary, technical direction or clarification concerning the details of specific tasks set forth in the contract shall be given through issuance of Technical Direction Letters (TDLs) by the Contracting Officer's Representative (COR).

(b) Each TDL shall be in writing and shall include, as a minimum, the following information:

- (1) Date of TDL;
- (2) Contract and TDL number;
- (3) Reference to the relevant section or item in the statement of work;
- (4) Signature of COR

(c) Each TDL issued hereunder is subject to the terms and conditions of this contract; and in no event shall technical directions constitute an assignment of new work or changes of such nature as to justify any adjustment to the fixed fee, estimated costs, or delivery terms under the contract. In the event of a conflict between a TDL and this contract, the contract shall control.

(d) When in the opinion of the Contractor a technical direction calls for effort outside the contract statement of work, the Contractor shall notify the COR and Contracting Officer thereof in writing within two working days of having received the technical direction in question. The

Contractor shall undertake no performance to comply with the technical direction until the matter has been resolved by the Contracting Officer through formal contract modification or other appropriate action.

(e) Oral technical directions may be given by the COR only in emergency circumstances, and provided that any oral technical direction given is reduced to writing by the COR within two working days of its issuance.

(f) Amendments to a TDL shall be in writing and shall include the information set forth in paragraph (b) above. A TDL may be amended orally only by _____* in emergencies; oral amendments shall be confirmed in writing within two working days from the time of the oral communication amending the TDL by a TDL modification.

(g) Any effort undertaken by the Contractor pursuant to oral or written technical directions issued other than in accordance with the provisions herein shall be at the Contractor's risk of not recovering related costs incurred and corresponding proportionate amount of fixed fee, if any.

(End of Clause)

SUP 5252.242-9403 Reserved

SUP 5252.242-9404 Reporting Requirements (JAN 1992) Insert the following clause in solicitations and contracts when a Contracting Officer's Representative has been appointed.

REPORTING REQUIREMENTS (JAN 1992)

A status report shall be submitted on a monthly basis to the Procuring Contracting Officer, Contracting Officer's Representative, Ordering Officer (if applicable) and Administrative Contracting Officer. The report shall provide the number of hours expended, the total cost incurred to date, data status and delivery status.

(End of Clause)

SUP 5252.243-9400 Authorized Changes Only By The Contracting Officer (JAN 1992)

Insert the following clause in solicitations and contracts, when it is anticipated that liaison and communication between contractor and Government technical personnel will be required.

AUTHORIZED CHANGES ONLY BY THE CONTRACTING OFFICER (JAN 1992)

(a) Except as specified in paragraph (b) below, no order, statement, or conduct of Government personnel who visit the Contractor's facilities or in any other manner communicate with Contractor personnel during the performance of this contract shall constitute a change under the "Changes" clause of this contract.

(b) The Contractor shall not comply with any order, direction or request of Government personnel unless it is issued in writing and signed by the Contracting Officer, or is pursuant to specific authority otherwise included as a part of this contract.

(c) The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract and notwithstanding provisions contained elsewhere in this contract, the said authority remains solely with the Contracting Officer. In the event the Contractor effects any change at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any increase in charges incurred as a result thereof. The address and telephone number of the Contracting Officer is:

NAME: _____
ADDRESS: _____
TELEPHONE: _____
(End of Clause)

SUP 5252.245-9400 Use of Existing Government Production and Research Property (JAN 1992) Insert the following provision, in conjunction with the Section M "Evaluation - Rent Free Use of Government Production and Research Property" provision prescribed elsewhere herein, in competitive solicitations where it is anticipated that one or more offers may include requests to use existing government production and research property in contract performance pursuant to the Section H "Rent Free Use of Government Production and Research Property" clause also prescribed herein.

USE OF EXISTING GOVERNMENT PRODUCTION AND RESEARCH PROPERTY (JAN 1992)

(a) Any offeror proposing to use existing production and research property in the performance of work under this solicitation shall submit with his offer the following:

(1) A list or description of all Government production and research property that the offeror or its subcontractors propose to use on a rent-free basis. This list shall include property offered for use in the solicitation, as well as property already in possession of the offeror and its subcontractors under other contracts.

(2) Identification of the facilities contract or other instrument under which property already in possession of the offeror and its subcontractors is held, and the written permission for its use from the Contracting Officer having cognizance of the property.

(3) The dates during which the property will be available for use (including the first, last, and all intervening months) and, for any property that will be used concurrently in performing two or more contracts, the amounts of the respective uses in sufficient detail to support prorating the rent.

(4) The amount of rent that would otherwise be charged, computed in accordance with FAR 45.403.

(b) The competitive advantage that might otherwise accrue to an offeror from the use of existing Government production and research property shall be eliminated by adding an evaluation factor to each offer for which such use is requested, which shall be equivalent to the rent which would otherwise be charged for such use. No use of Government production and research property other than as described and permitted herein shall be authorized unless such use is approved in writing by the Contracting Officer cognizant of the property, and either rent calculated in accordance with FAR 52.245-9, Use and Charges is charged, or the contract price is reduced by an equivalent amount.

(End of Provision)

SUP 5252.245-9401 Government Furnished Property (OCT 1995) Insert the following clause in solicitations and contracts where Government Furnished Property (GFP) (including precious metals, if applicable) will be made available, at the Government's expense, for use by the contractor. The contracting officer shall insert the following: (*) the property description, quantity and availability date; (**) the mode of transportation for the Government Property. NOTE: GFP from Government supply system must include the national stock number.

GOVERNMENT FURNISHED PROPERTY (1995 OCT)

(a) The Government will furnish the following property to the Contractor for use in performance of this contract in accordance with the following schedule:

| PROPERTY | QUANTITY | ACQUISITION COST | DATE |
|----------|----------|---------------------|------|
| * | | | |
| | | | |
| | | | |

Delivery of such property will be made by _____ **

(b) The property will be delivered at Government's expense at or near (The Contractor is to insert the address, city or town and state in which the plant is located; and if rail transportation is specified in paragraph (a) above, the exact location of private siding or public team tract at which rail shipments will be received, as well as the name of the railroad(s)):

(c) Only the property listed above in the quantity shown will be furnished by the Government. All other property required for performance of this contract shall be furnished by the Contractor.

(d) Within 30 days after Government furnished property is determined by the Contractor to be lost, damaged, destroyed, no longer usable, or no longer needed for the performance of the contract, the Contractor shall notify the Contracting Officer, in writing, thereof.

(End of Clause)

SUP 5252.245-9402 Rent Free Use of Government Production and Research Property

(JAN 1992) Insert the following clause in (1) solicitations where it is anticipated that one or more offers may include requests to use government production and research property on a rent-free basis in contract performance, and (2) in resulting contracts where such use has in fact been requested and has been authorized by the contracting officer having cognizance over the property concerned. NOTE: For solicitation use in conjunction with this clause, also see the Section L "Use of Existing Government Production and Research Property" and Section M "Evaluation-Rent Free Use of Government Production and Research Property" provisions prescribed elsewhere herein.

RENT FREE USE OF GOVERNMENT PRODUCTION AND RESEARCH PROPERTY (JAN 1992)

(a) The Contractor is authorized to use in the performance of this contract, on a no-charge-for-use basis, the Government production and research property (as defined in FAR 45.301) in the Offeror's possession under Contract Number _____ in accordance with the terms of said contract, upon authorization of the Contracting Officer having cognizance of such property. The Contractor warrants that the contract price of this contract excludes any rental charges for use of such Government-owned property.

(b) In the event said property is not so made available to the Contractor in a condition suitable for the intended use in the performance of this contract, the parties shall negotiate to adjust the term of this contract to the extent agreed to be equitable. Such agreement will be evidenced by a Supplemental Agreement to this contract. Any disagreement between the Contractor and the Contracting Officer, with respect to such equitable adjustment, shall constitute a dispute under the Disputes clause.

(End of Clause)

SUP 5252.245-9403 Acquisition of Government Production and Research Property (JAN 1992)

Insert the following provision in solicitations when it is anticipated that the resulting contract may authorize the contractor to acquire Government production and research property whose disposal after use on the contract may be restricted by patent or other proprietary rights.

ACQUISITION OF GOVERNMENT PRODUCTION AND RESEARCH PROPERTY (JAN 1992)

In accordance with FAR 45.309(b), the offeror certifies that this procurement (____) does (____) does not involve the acquisition of Government production and research property, the disposition of which may be restricted by patent or other rights.

(End of Provision)

SUP 5252.245-9404 Rent-Free Use of Government Property (JAN 1992) Insert the following clause in solicitations and contracts when the Government is furnishing Government property to be used on a rent free basis.

RENT-FREE USE OF GOVERNMENT PROPERTY (JAN 1992)

Property furnished to the Contractor by the Government, or acquired by the Contractor for the Government's account under any contract resultant from this solicitation, and required for performance under this contract, will be utilized on a rent-free, noninterference basis in the performance of this contract.

(End of Clause)

SUP 5252.245-9405 Government Property Offered For Use (JAN 1992) Insert the following provision in solicitations where Government production and research property (i.e., Government tooling, test equipment, or facilities) is offered for use to the contractor. The contracting officer shall insert the following: description of the property offered; the quantity offered; the rental per month of such property (to be listed as an evaluation factor in the provision); the location of the property; and, the number of days after date of contract in which the property will be furnished to the successful offeror.

GOVERNMENT PROPERTY OFFERED FOR USE (JAN 1992)

(a) The following Government production and research property is hereby offered for use on a rent-free basis to offerors requiring it in the performance of this contract:

| <u>Property</u> | <u>Evaluation Quantity</u> | <u>Factor</u> | <u>Location</u> | <u>Available (# of days after Award)</u> |
|-----------------|--------------------------------|---------------|-----------------|--|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

(b) In order to eliminate any competitive advantage that might otherwise arise from the use of this property, a monthly evaluation factor shall be added to all offers requiring rent-free use of the property. Any charges for transportation of the above-listed property will be borne by the contractor.

(c) If an offeror will require the Government property offered in paragraph (a) in the performance of this contract, the offeror shall indicate below the particular property required (if the property required is less than all the property offered) and the number of months such property will be required. Rent-free use of such property will be authorized only to an offeror completing this clause and will be limited to the number of months such offeror inserts below.

(d) An Offeror failing to complete this clause will be deemed to require no use of the Government property offered. Where an Offeror indicates that he will require the property, but fails to indicate the length of time it is required, his offer will be evaluated based on his use of the property from the time first available for the entire duration of the contract. An Offeror requiring use of some, but not all, of the property offered shall indicate the particular property needed. The Offeror _____ will _____ will not require the use of the Government property.

Where such use is required, it will be for ____ months from the time the property is first available for use. Property required:

(End of Provision)

SUP 5252.245-9406 Use of Government Property in Offeror's Possession (JAN 1992)

Insert the following provision in solicitations when the contracting officer anticipates that Government property may be necessary to perform under the contract.

USE OF GOVERNMENT PROPERTY IN OFFEROR'S POSSESSION (JAN 1992)

If the Offeror intends to use in the performance of the work required hereunder any Government-owned facilities, special test equipment, or special tooling, the offeror shall so advise in its response and shall include in such response the value of such property, the number of the contract(s) under which such property was acquired, the rental provisions of such contract(s) and such other information as may be relevant. In addition to the above, the Offeror shall include in its proposal, the written concurrence of its proposed use of the property from the Contracting Officer having cognizance of such property.

(End of Provision)

SUP 5252.245-9407 Government Production and Research Property Provided "As Is" (Facilities Contract) (JAN 1992)

Insert the following clause in facilities solicitations and contracts for fixed-price, time-and-material or labor-hour contracts when the contracting officer determines that Government production and research property should be provided on an "as is" basis. (* Describe the property to be furnished.)

GOVERNMENT PRODUCTION AND RESEARCH PROPERTY PROVIDED "AS IS" (FACILITIES CONTRACT) (JAN 1992)

The following Government production and research property is provided on an "as is" basis. The Contractor will not be reimbursed for transporting, installing, modifying, repairing, or otherwise making the property ready for use.

*

(End of Clause)

SUP 5252.245-9408 Reserved

SUP 5252.245-9409 Facilities (JAN 1992) Insert the following clause in Basic Ordering Agreements under which orders will be issued for spare and repair parts. (*) Insert the contract numbers under which the facilities are accountable.

FACILITIES (JAN 1992)

(a) In the performance of all orders under this Basic Ordering Agreement other than orders for Foreign Military Sales (FMS), the Contractor is authorized to use on a rent-free and no-charge-for-use basis those facilities provided under Contracts _____. In addition,

on all non-FMS orders, Subcontractors are authorized to use on a rent-free basis those facilities furnished to them under facilities contracts which provide for use, without charge, of Government owned facilities furnished thereunder subject to the terms and conditions of such facilities contracts. On all orders (FMS and non-FMS) issued under this Basic Ordering Agreement, the Contractor and/or his Subcontractor(s) are also authorized to use, on a rent-free and no-charge-for-use basis, Government property (i.e., tooling and test equipment), special tooling and special test equipment which is in the Contractor's possession and which is not covered by a facilities contract. Such use is subject to the terms and conditions of the contract(s) under which the tooling or test equipment is held.

(b) The Contractor warrants that it will not include in the prices inserted in any non-FMS order issued hereunder any factor for the rental, depreciation or amortization of such facilities, special tooling or special test equipment and warrants that its subcontract prices of subcontracts on which use of facilities, special tooling or special test equipment on a no-charge-for-use basis is authorized will also not include any factor for the rental, depreciation or amortization of such facilities, special tooling, or special test equipment.

(c) If the facilities, special tooling or special test equipment are withdrawn from the Contractor or Subcontractor by the Government, or if permission to use on a no-charge-for-use basis is withdrawn from Contractor or Subcontractor at any time prior to or during the performance under any orders issued hereunder, the Contractor shall immediately notify the Contracting Officer, in writing, and advise the Contracting Officer of the steps the Contractor or Subcontractor will take to replace the property withdrawn or no longer authorized for use. The price and delivery schedule of such order shall be equitably adjusted as evidenced by a Supplemental Agreement thereto. Failure to agree upon such equitable adjustment in price and delivery shall be a dispute under the Disputes clause.

(End of clause)

SUP 5252.246-9400 Special Distribution of DD Form 250 (JAN 1992) Insert the following clause in solicitations and contracts when special distribution is limited to those activities and quantities set forth in the DFARS Appendix F, Table 2.

SPECIAL DISTRIBUTION OF DD FORM 250 (JAN 1992)

The Material Inspection and Receiving Report (DD Form 250) required to be furnished elsewhere herein shall be distributed by the Contractor in accordance with Tables 1 and 2 of the DoD FAR Supplement Appendix F, "Material Inspection and Receiving Report". The addresses set forth below are those required to be specified within the contract by the aforementioned Table 2.

| Activity | Address |
|----------|---------|
| _____ | _____ |
| | _____ |
| | _____ |
| _____ | _____ |
| | _____ |
| | _____ |

(End of Clause)

SUP 5252.247-9400 Premium Transportation (JAN 1992) Insert the following clause in contracts only, not in solicitations, if requirements change necessitating the authorization of premium transportation costs. Do not use with FOB Origin. The contracting officer shall insert the following: (*) the mode of transportation; (**) CLINS; (***) contractor's plant location; and, (****) name and address of the transportation officer.

PREMIUM TRANSPORTATION (JAN 1992)

(a) Premium transportation by _____*_____ for items _____**_____ is hereby authorized from the Contractor's plant located at _____***_____ at Government expense. The cost is to be included on the applicable invoice as a separate item and must be substantiated by the original transportation receipt.

(b) Mark shipping documents: "Notify Transportation Officer, _____****_____, immediately upon arrival of delivery instructions, telephone _____."

(End of Clause)

SECTION III
SAMPLE NON-STANDARD CLAUSES
AND SAMPLE TEXT

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SECTION III – SAMPLE NON-STANDARD CLAUSES AND SAMPLE TEXT

Progress and Status Report, Level of Effort Contracts (JAN 1999) (NAVSUP) Insert a clause substantially as follows in all Time and Material, Cost Reimbursement Level of Effort solicitations and contracts (without delivery orders). NOTE: Consider use of Integrated Product Teams (IPTs), on-line media, video conferencing, face-to-face meetings, or similar alternatives before using this clause.

PROGRESS AND STATUS REPORT, LEVEL OF EFFORT CONTRACTS (JAN 1999) (NAVSUP)

(a) The Contractor shall prepare and submit a report as a supplement to each Standard Form 1034 presented for payment. The report shall cover the term for which the invoice is submitted and shall include the following information, when applicable:

(1) Identification Elements

- (i) Title ("Level of Effort, Progress and Status Report")
- (ii) Contract, Invoice and Control Numbers
- (iii) Contractor's Name and Address
- (iv) Date of Report
- (v) Reporting (invoicing) Period
- (vi) Name of Individual Preparing Report

(2) Description Elements

(i) Description of progress made during the reporting period, including problem areas encountered, and recommendations.

(ii) Results obtained relating to previously identified problem areas.

(iii) Deliverables completed and delivered.

(iv) Extent of subcontracting and results achieved.

(v) Extent of travel, including identification of individuals performing the travel, the labor categories of such individuals, the total number of travelers, the period of travel by labor category, and the results of such travel.

(vi) Labor hours expended for the period and cumulatively broken out to identify labor categories and specific individuals(*) utilized and the amount of labor hours expended by each.

(vii) Labor hours, by labor category and cumulatively, anticipated to be required for completion of the contract.

(viii) Materials and other direct cost items expended in performance of the contract during the reporting period.

(ix) Problem areas and recommendations involving impact on technical, cost and scheduling requirements.

(b) Each report shall address each element of paragraph (2) above. Where the element is not applicable, the report shall so state.

(c) Distribution of the report shall, as a minimum, be one (1) copy to the Contract Administration Office and one (1) copy to the Contracting Officer's Representative. Additional requirements may be established in a DD Form 1423, Contract Data Requirements List.

(d) Requiring activities will insure this report and copies of the invoice are retained.

(*) If, for reasons of company proprietary interest, it is desired to withhold names of individuals from the report, a unique identifier (such as payroll number) will be accepted; provided, however, that no more than one such identifier is utilized by any individual under this or any other contract effort, and that the names of the individuals so identified will be made available to the Contracting Officer upon request.

(End of clause)

ALTERNATE I. Substitute the following paragraph (2) for paragraph (2) of the basic clause in

all Time and Material and Cost Reimbursement Level of Effort Indefinite Delivery Type Contracts.

(2) Task Order Description Elements. For each task order included in the invoice, the report shall include:

- (i) Task order number.
- (ii) Description of progress made during the reporting period, including problem areas encountered, and recommendations.
- (iii) Results obtained relating to previously identified problem areas.
- (iv) Deliverables completed and delivered.
- (v) Extent of subcontracting and results achieved.
- (vi) Extent of travel, including identification of individuals(*) performing the travel, the labor categories of such individuals, the total number of travelers, the period of travel by labor category, and the results of such travel.
- (vii) Labor hours expended for the period and cumulatively broken out to identify labor categories and specific individuals* utilized and the amount of labor hours expended by each.
- (viii) Labor hours, by labor category and cumulatively, anticipated to be required for completion of the order.
- (ix) Materials and other direct cost items expended in performance of the Task Order.
- (x) Problem areas and recommendations involving impact on technical, cost and scheduling requirements.

(*) If, for reasons of company proprietary interest, it is desired to withhold names of individuals from the report, a unique identifier (such as payroll number) will be accepted; provided, however, that no more than one such identifier is utilized by any individual under this or any other contract effort, and that the names of the individuals so identified will be made available to the Contracting Officer upon request.

(End of clause)

Hazardous Material (Jan 1999)(NAVSUP) Insert this clause in solicitations and contracts involving the shipment of hazardous materials such as explosives, flammable, non-flammable and poisonous gases, flammable liquids, and solids, oxidizing substances, poisonous (toxic) and infectious substances, radioactive substances and corrosives. Use this clause in conjunction with FAR clause 52.223-3 and DFARS clause 252.223-7001.

HAZARDOUS MATERIALS (JAN 1999) (NAVSUP)

(a) Hazardous materials as used in this clause means any material defined as hazardous within the applicable modal regulations governing packaging, handling storage and transportation (including revisions adopted during the term of this contract). Such definitions include the following:

| <u>Class/Division</u> | <u>Definition</u> |
|-----------------------|--|
| 1 | Explosives |
| 2.1 | Flammable Gas |
| 2.2 | Non-Flammable, Non-poisonous Compressed Gas |
| 2.3 | Gas Poisonous by Inhalation |
| 3 | Flammable Liquid (flash point not more than 141 degrees F) |
| 4.1 | Flammable Solid |
| 4.2 | Spontaneously Combustible Material |
| 4.3 | Dangerous When Wet Material |

| | |
|------|--------------------------------------|
| 5.1 | Oxidizer |
| 5.2 | Organic Peroxides |
| 6.1 | Poisonous Material |
| 6.2 | Infectious Substance |
| 7 | Radioactive Material |
| 8 | Corrosive Material |
| 9 | Miscellaneous Hazardous Material |
| None | Otherwise Regulated Material (ORM-D) |

(b) Preservation, packaging and packing of hazardous materials shipped hereunder shall be in accordance with the requirements of Department of Transportation Code of Federal Regulation, Title 49, Part 100 - 199, as applicable. In the event of any discrepancy between the contract and Title 49, Title 49 shall govern, unless another modal regulation is applicable (See paragraphs (e), (f) and (g) below.

(c) Marking and labeling shall be in accordance with MIL-STD-129 and Title 49, as applicable. In the event of any contradiction between the two documents, Title 49 shall govern.

(d) Transportation shall be in accordance with Title 49; however, hazardous material shipped via the U.S. Postal Service shall be shipped in accordance U.S. Postal Service Publication.

(e) Hazardous materials intended for shipment via water transportation shall be packaged, packed, marked and labeled in accordance with the International Maritime Organization International Maritime Dangerous Goods (IMDG) Code.

(f) Hazardous materials intended for shipment, via commercial air, shall be packaged, packed, marked, labeled, and certified in accordance with the International Civil Aviation Organization (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods By Air or the International Air Transport Association (IATA) Dangerous Goods Regulations.

(g) Hazardous materials intended for shipment, via military aircraft, shall be packaged, packed, marked, labeled, and certified in accordance with joint manual AFJMAN 24-204/NAVSUPPUB 505/TM 38-250/MCO P4030.19G/DLA14145.3 (Preparing Hazardous Materials For Military Air Shipments).

(h) If the hazardous material required to be shipped under this contract is a non-regulated limited quantity as defined by applicable modal regulations, it shall be packaged to meet the requirements of Level A packaging listed in MIL-STD-2073.

(i) In addition to the above, packaging (container and containment components) designs shall pass all applicable packaging performance tests in accordance with Title 49, the ICAO/IATA and IMDG, as applicable. Compressed gases are excluded from these tests. Each packaging of acceptable design shall bear certification markings outlined in Title 49. All certificates and test reports indicating test compliance shall be available for inspection by authorized government representatives.

(j) A test report and special packaging instruction shall be submitted in accordance with DD Form 1423, Contract Data Requirements List, referencing Data Item Descriptions (DIDs) DI-PACK-81059 (Performance Oriented Packaging Test Report) and DI-PACK-80121 (Special Packaging Instruction). When these DIDs are referenced, only packaging materials controlled by Military or Federal Specifications may be used, unless superseded by commercial standards which have been adopted for government use.

(k) A Material Safety Data Sheet, prepared in accordance with FED-STD-313, and a copy of the Hazard Warning Labels shall be forwarded to the applicable contracting activity.

(End of Clause)

Marking of Warranted Items (SEP 1994) (NAVSUP) The following text may be included in solicitations and contracts which include a warranty clause and may be modified, as necessary, to fit the needs of the particular procurement.

MARKING OF WARRANTED ITEMS (SEP 1994) (NAVSUP)

(a) Each item covered by a warranty shall be stamped or marked in accordance with MIL-STD-129, Marking for Shipment and Storage. Where this is impracticable, written notice shall be attached to or furnished with the warranted item.

(b) Warranted items shall be marked with the following information:

- (1) National stock number or manufacturer's part number
- (2) Serial number or other item identifier (if the warranty applies to uniquely identified items)
- (3) Contract number
- (4) Indication that a warranty applies
- (5) Manufacturer or entity (if other than the contractor) providing the warranty
- (6) Date or time when the warranty expires
- (7) Indication of whether or not attempted on-site repair by Government personnel will void the warranty.

(End of text)

Preservation, Packaging, and Packing (JAN 1999) (NAVSUP) Insert a clause substantially as follows in supply solicitations and contracts.

PRESERVATION, PACKAGING, AND PACKING (JAN 1999) (NAVSUP)

(a) The Contractor shall preserve, package and pack items procured for system stock, overseas destinations or ships at sea, in accordance with MIL-STD-2073-1C requirements specified in the schedule or elsewhere in the contract or order. If specific requirements are not included in the contract or order, the Contractor shall preserve and package in accordance with previously approved requirements, within the technical parameters of MIL-STD-2073-1C.

(b) The use of plastic packaging materials is prohibited unless prescribed in specific packaging requirements in the contract or order, or unless required to adequately protect the item from damage. The use of shredded paper, excelsior, polystyrene and other loose-fill material as a cushion is prohibited in all packaging and packing operations.

(c) For items procured for installation / immediate use, the Contractor shall preserve and package in accordance with standard commercial practices or ASTM-D3951, Standard Practice For Commercial Packaging, if specified. Items assigned to the Direct Vendor Delivery (DVD) program shall be preserved and packaged in accordance with standard commercial practices or ASTM-D3951, if pre-approved. Packing for shipment (i.e., shipping container) shall be in accordance with MIL-STD-2073-1C, Level A, for overseas surface shipments that are not containerized and all deliveries to ships at sea; Level B for all remaining overseas shipments; Level C for domestic shipments.

(d) In accordance with 29 CFR, the Contractor shall ensure that the following caution label is placed on all unit, intermediate and shipping containers for all items containing asbestos in a form that can be inhaled:

CAUTION
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
BREATHING ASBESTOS DUST MAY CAUSE SERIOUS BODILY HARM

(e) All items containing asbestos in a form that can be inhaled shall be packaged in sealed, impermeable bags or other impermeable containers, as required by 29 CFR. NOTE TO

SUPPLIERS: If the supplies to be furnished on this document require the asbestos caution label described above, the Contractor shall notify the contract administrator indicated in the schedule prior to shipment.

(End of Clause)

Inspection and Acceptance (Origin) (SEP 1994) (NAVSUP) The following "text" may be included in solicitations and contracts when inspection and acceptance of supplies or services will take place at origin. The following is only a sample which may be modified, as necessary, to fit the needs of the particular procurement. *Indicate who will perform inspection and acceptance. **At the time of award, insert the location where inspection and acceptance will take place. *** Indicate whether advance notice required. ****Indicate how many days advance notice required.

INSPECTION AND ACCEPTANCE (ORIGIN) (SEP 1994) (NAVSUP)

(a) Government inspection and acceptance of the supplies or services to be furnished hereunder shall be performed by _____* at the Contractor's or Subcontractor's plant located at _____.** The location designated for such inspection and acceptance shall not be changed without prior, written authorization of the Contracting Officer.

(b) The cognizant inspector shall be notified when supplies or services are ready for Government inspection.

(c) Advance notification of the cognizant inspector *** is _____ is not required at least _____ days prior to conducting Contractor inspections and/or testing.

(End of text)

Inspection and Acceptance (Destination) (SEP 1994) (NAVSUP) The following "text" may be included in solicitations and contracts when inspection and acceptance of supplies or services will take place at destination. The following is only a sample which may be modified, as necessary, to fit the needs of the particular procurement. *Indicate who will perform inspection and acceptance.

INSPECTION AND ACCEPTANCE (DESTINATION) (SEP 1994) (NAVSUP)

Inspection and acceptance of the supplies or services to be furnished hereunder shall be performed at destination by _____*.

(End of text)

Inspection and Acceptance (Special Conditions) (SEP 1994) (NAVSUP) The following "text" may be included in solicitations and contracts which require unusual inspection provisions (e.g., Subsafe, nuclear material). This "text" is only a sample which may be modified, as necessary, to fit the needs of the particular procurement. The contracting officer shall insert: (*) Cognizant inspector (**) Inspection location, (***) Number of days (usually 10) (****) Either "receipt" or "installation/checkout/test".

INSPECTION AND ACCEPTANCE (SPECIAL CONDITIONS) (SEP 1994) (NAVSUP)

(a) Initial inspection of the supplies to be furnished hereunder shall be made by _____* at the Contractor's or Subcontractor's plant located at _____.** The cognizant inspector shall be notified when the material is available for inspection. The place designated for such actions shall not be changed without authorization of the

Contracting Officer. Final inspection and acceptance shall be made by _____* within
*** days after _____****.

(b) Initial inspection shall consist of quality assurance at point of manufacture and/or assembly and check/test prior to shipment. Final inspection and acceptance will be made by the Receiving Activity after installation/checkout/testing of the supplies.

(End of text)

Source Inspection and Acceptance Level I/Subsafe Materials (SEP 1994) (NAVSUP) The following sample "text" may be included in solicitations, agreements and contracts involving Level I/Subsafe Stock and/or provisioning acquisitions for joint source inspection items: Oxygen/Nitrogen, standard valves per drawing 803-5184193, coated fasteners to MIL-C-81751B, and selected commodities. The following is only a sample which may be modified, as necessary, to fit the needs of the specific procurement. * Insert the location of the contractor's plant.

SOURCE INSPECTION AND ACCEPTANCE LEVEL I/SUBSAFE MATERIALS (SEP 1994) NAVSUP

Supplies and services to be provided hereunder will be inspected at the Contractor's plant _____ Level I/Subsafe, certifying activity will jointly, at source, with the cognizant Quality Assurance Representative (QAR) from the Defense Contract Management Command inspect, certify, accept and release this material from the Contractor's plant. The Contractor shall provide a minimum of five (5) Government working days advance notice to the QAR when material will be ready for acceptance prior to cleaning. Applicable certifying activity and points of contact will be provided to the QAR by separate correspondence.

(End of text)

Appointment of Ordering Officer(s) (SEP 1995) (NAVSUP) The following sample "text" may be inserted in solicitations and contracts requiring the issuance of delivery/task orders when an activity(ies) other than the activity awarding the basic contract will place order(s), or when an individual(s) is/are appointed as an authorized Ordering Officer(s). The following is only a sample which may be modified, as necessary, to fit the needs of the specific procurement. *The Contracting Officer should insert the name of the activity(ies) (if other than the awarding activity) or the name(s), code(s), office address(es) and telephone number(s) of those individual(s) at the awarding activity who are authorized Ordering Officer(s) under the contract.

APPOINTMENT OF ORDERING OFFICER(S) (SEP 1995) (NAVSUP)

(a) The following activity(ies) or individual(s) is/are designated as authorized Ordering Officer(s):

_____*
_____*
_____*

(b) The above activity(ies) is/are responsible for issuing and administering any orders placed hereunder. Ordering Officers may negotiate revisions/modifications to orders, but only within the scope of this contract. Ordering Officers have no authority to modify any provision of this basic contract. Any deviation from the terms of the basic contract must be submitted to the Procuring Contracting Officer (PCO) for contractual action. Ordering Officers may enter into mutual no-cost cancellations of orders under this contract and may reduce the scope of orders/tasks, but Terminations for Convenience or Terminations for Default shall be issued only by the PCO.

(End of Text)

Contract Administration Appointments and Duties (SEP 1995) (NAVSUP) The following sample "text" should be inserted in section G of solicitations and contracts when a Contracting Officer's Representative (COR) will be designated. It should be used in conjunction with DFARS 252.201-7000. This text identifies the assigned duties of each individual involved in the administration of the contract and may be modified, as necessary, to fit the needs of the specific procurement.

CONTRACT ADMINISTRATION APPOINTMENTS AND DUTIES (SEP 1995) (NAVSUP)

(a). In order to expedite administration of this contract/order, the following delineation of duties is provided including the names, addresses and phone numbers for each individual or office as specified. The individual/position designated as having responsibility should be contacted for any questions, clarifications or information regarding the functions assigned.

(1) **PROCURING CONTRACTING OFFICER (PCO)** is responsible for:

- (i) All pre-award information, questions, or data;
- (ii) Freedom of Information inquiries;
- (iii) Change/question/information regarding the scope, terms or conditions of the basic contract document; and/or
- (iv) Arranging the post award conference (See FAR 42.503).

Name: _____

Address: _____

Phone: _____

(2) **CONTRACT ADMINISTRATION OFFICE (CAO)** is responsible for matters specified in FAR 42.302 and DFARS 242.302 except in those areas otherwise designated herein.

Name: _____

Address: _____

Phone: _____

(3) **DEFENSE CONTRACT AUDIT AGENCY (DCAA)** is responsible for audit verification/provisional approval of invoices and final audit of the contract prior to final payment to the contractor.

Name: _____

Address: _____

Phone: _____

(4) **PAYING OFFICE** is responsible for payment of proper invoices after acceptance is documented.

Name: _____

Address: _____

Phone: _____

(5) **CONTRACTING OFFICERS REPRESENTATIVE (COR)** is responsible for:

(i) Liaison with personnel at the Government installation and the contractor personnel on site;

(ii) Technical advice/recommendations/clarification on the statement of work;

(iii) The statement of work for delivery/task orders placed under this contract;

(iv) An independent government estimate of the effort described in the definitized statement of work;

(v) Quality assurance of services performed and acceptance of the services or deliverables;

(vi) Government furnished property;

(vii) Security requirements on Government installation;

(viii) Providing the PCO or his designated Ordering Officer with appropriate funds for issuance of the Delivery/Task order; and/or

(ix) Certification of invoice for payment.

NOTE: When, in the opinion of the Contractor, the COR requests effort outside the existing scope of the contract (or delivery/task order), the Contractor shall promptly notify the Contracting Officer (or Ordering Officer) in writing. No action shall be taken by the contractor under such direction until the Contracting Officer has issued a modification to the contract or, in the case of a delivery/task order, until the Ordering Officer has issued a modification of the delivery/task order; or until the issue has otherwise been resolved. THE COR IS NOT AN ADMINISTRATIVE CONTRACTING OFFICER AND DOES NOT HAVE AUTHORITY TO DIRECT THE ACCOMPLISHMENT OF EFFORT WHICH IS BEYOND THE SCOPE OF THE STATEMENT OF WORK IN THE CONTRACT OR DELIVERY/TASK ORDER.

COR Name: _____

Address: _____

Phone: _____

In the event that the COR named above is absent due to leave, illness, or official business, all responsibilities and functions assigned to the COR will be the responsibility of the alternate COR listed below:

ACOR Name: _____

Address: _____

Phone: _____

(6) TECHNICAL ASSISTANT, if assigned by the requiring activity, is responsible for providing technical assistance and support to the COR in contract administration by:

- (i) Identifying contractor deficiencies to the COR;
- (ii) Reviewing contract/delivery/task order deliverables and recommending acceptance/rejection of deliverables;
- (iii) Identifying contractor noncompliance of reporting requirements;
- (iv) Evaluating contractor proposals for specific contracts/orders and identifying areas of concern affecting negotiations;
- (v) Reviewing contractor reports providing recommendations for acceptance/rejection;
- (vi) Reviewing invoices for appropriateness of costs and providing recommendations to facilitate certification of the invoice;
- (vii) Providing COR with timely input regarding the SOW, technical direction to the contractor and recommending corrective actions; and
- (viii) Providing written reports to the COR as required concerning trips, meetings or conversations with the contractor.

NAME _____

ADDRESS: _____

PHONE: _____

(7) ORDERING OFFICER is responsible for:

- (i) Requesting, obtaining, and evaluating proposals for orders to be issued;
- (ii) Determining the estimated cost of the order is fair and reasonable for the effort proposed;
- (iii) Obligating the funds by issuance of the delivery/task order;
- (iv) Authorization for use of overtime;
- (v) Authorization to begin performance; and/or
- (vi) Monitoring of total cost of delivery/task orders issued.

The following limitations/restrictions are placed on the Ordering Officer:

- (i) Type of order issued is limited by this contract to _____ pricing arrangements;
- (ii) No order shall be placed in excess of \$_____ without the prior approval of the PCO; and/or
- (iii) No order shall be placed with delivery requirements in excess of _____.

Name: _____
Address: _____
Phone: _____

(End of Text)

Post-Award Conference (JAN 1992) (NAVSUP) The following sample "text" may be inserted in solicitations and contracts when post-award conferences have been determined necessary by the contracting officer. The following is only a sample which may be modified, as necessary, to fit the needs of the specific procurement.

POST-AWARD CONFERENCE (JAN 1992) (NAVSUP)

(a) A post-award conference shall be conducted within _____ days after contract award with representatives of the Contractor, the cognizant Contract Administration Office, and the Contracting Officer at _____. The Contracting Officer, or designated representative, initiating the conference will designate, or act as, the chairperson. At the request of the Procuring Contracting Officer, conference arrangements will be made by the Contract Administration Office, including notification to the Contractor and the Contracting Officer.

(b) The requirement for a post-award conference shall in no event constitute grounds for excusable delay by the Contractor in performance of any provisions in the contract.

(End of text)

Notice to Contract Administration and Receiving Activities (APR 1999) (NAVSUP) Insert a clause substantially as follows in solicitations and contracts subject to the Navy's Product Data Reporting and Evaluation Program (PDREP), Red/Yellow/Green (RYG) program

NOTICE TO CONTRACT ADMINISTRATION AND RECEIVING ACTIVITIES (APR 1999) (NAVSUP)

(a) This contract is subject to the Navy's Product Data Reporting and Evaluation Program (PDREP), Red/Yellow/Green (RYG) program. PDREP RYG is authorized by the Assistant Secretary of the Navy (Research, Development and Acquisition) for the acquisition of commodities used to build and maintain the Fleet -- material, parts, and components of ships, planes, and weapons systems. PDREP RYG does not apply to procurements that come under the cognizance of the Nuclear Propulsion Directorate.

(b) Contractor quality history is essential to the successful use of the PDREP RYG program, and to evaluate the program's affect on the Navy's ability to increase the quality of products supplied to the Fleet. To get maximum effectiveness from the program, each activity must comply fully with the data submittal requirements of Navy and Marine Corps Product Data Reporting and Evaluation Program (PDREP) Manual, NAVSO P-3683.

(c) Questions about the program should be addressed to the Naval Sea Logistics Center Detachment, Portsmouth, Federal Building, Room 400, 80 Daniel Street, Portsmouth, NH 03801-3884, telephone 603-431-9460.

(End of Clause)

Evaluation - Rent-Free Use of Government Production And Research Property (JAN 1992) (NAVSUP) Insert a provision substantially as follows in solicitations where a competitive

- (d) A time and material or labor hour order will be issued when _____
(e) A firm fixed price order will be issued when _____
(End of clause)

Technology Improvements (FEB 1999) (NAVSUP) A clause substantially as follows may be inserted in solicitations and contracts for information technology to provide a means (within the scope of the contract) to substitute new technology for discontinued equipment.

TECHNOLOGY IMPROVEMENTS (FEB 1999) (NAVSUP)

(a) After contract award, the Government may solicit, and the Contractor is encouraged to propose independently, technology improvements to the equipment, software specifications, or other requirements of the contract. These improvements may be proposed to save money, improve performance, to save energy or for any other purpose which presents a technological advantage to the Government. As part of the proposed changes, the Contractor shall submit a price proposal to the Contracting Officer for evaluation. Those proposed technology improvements that are acceptable to the Government will be processed as modifications to the contract.

(b) This clause applies only to those proposed changes identified by the Contractor under a proposal submitted pursuant to the provisions of this clause. At a minimum, the following information shall be submitted by the Contractor with each proposal:

(1) A description of the difference(s) between the existing contract requirement and the proposed change(s), and the comparative advantages and disadvantages of each;

(2) Itemized requirements of the contract which must be changed if the proposal is adopted, and the proposed revision to the contract for each change;

(3) An estimate of the changes in performance and price, if any, that will result from adoption of the proposal;

(4) An evaluation of the effects the proposed changes would have on collateral costs to the Government, such as Government-furnished property costs, costs of related items, and costs of maintenance and operation; and

(5) A statement of the time by which the change order adopting the proposal must be issued so as to obtain the maximum benefits of the changes during the remainder of this contract. Also, any effect on the contract completion time or delivery schedule identified.

(c) The Government shall not be liable for proposal preparation costs or any delay in acting upon any proposal submitted pursuant to this clause. The Contractor has the right to withdraw, in whole or in part, any proposal not accepted by the Government within the period specified in the proposal. The decision of the Contracting Officer as to the acceptance of any such proposal under this contract is final and not subject to the "Disputes" clause of this contract.

(d) The Contracting Officer may accept any proposal submitted pursuant to this clause by giving the Contractor written notice thereof. This written notice will be given by issuance of a modification to this contract. Unless and until a modification is executed to incorporate a proposal under this contract, the Contractor shall remain obligated to perform in accordance with the requirements, terms and conditions of the existing contract.

(e) If a proposal submitted pursuant to this clause is accepted and applied to this contract, an equitable adjustment in the contract price and in any other affected provisions of this contract shall be made in accordance with this clause and other applicable clauses of this contract.

(End of Clause)

Organizational Conflict of Interest (JAN 1992) (NAVSUP) Insert a clause substantially as follows in solicitations and contracts when a potential organizational conflict of interest exists. NOTE: Chief of the Contracting Office approval is required prior to including an organizational conflict of interest clause in solicitations and contracts. *The contracting officer may specify the period of prohibition stated in paragraph (c) when extenuating circumstances exist.

ORGANIZATIONAL CONFLICT OF INTEREST (JAN 1992) (NAVSUP)

This clause provides examples of certain organizational conflicts of interest which are prescribed by Federal Acquisition Regulation Subpart 9.5. The two underlying principles which this clause seeks to avoid are preventing the existence of conflicting roles that might bias a Contractor's judgement and preventing unfair competitive advantage. The following subsections prescribe certain limitations on contracting as the means of avoiding, neutralizing or mitigating organizational conflicts of interest.

(a) If, under this contract, the Contractor will provide systems engineering and technical direction for a system, but does not have overall contractual responsibility for its development, integration, assembly, checkout or production, the Contractor shall not be awarded a subsequent contract to supply the system or any of its major components, or to act as consultant to a supplier of any system, subsystem, or major component utilized for or in connection with any item or other matter that is (directly or indirectly) the subject of the systems engineering and technical direction. The term of this prohibition shall endure for the entire period of this contract and for two years thereafter.

(b) If, under this contract, the Contractor will prepare and furnish complete specifications covering non-developmental items, to be used in a competitive acquisition, the Contractor shall not be permitted to furnish these items, either as a Prime or Subcontractor. The term of this prohibition shall endure for the entire period of this contract performance and for either two years thereafter or the duration of the initial production contract whichever is longer. This rule shall not apply to Contractors who furnish specifications or data at Government request or to situations in which Contractors act as Government representatives to help Government agencies prepare, refine or coordinate specifications, provided this assistance is supervised and controlled by Government representatives.

(c) If, under this contract, the Contractor will prepare or assist in preparing a work statement to be used in competitively acquiring a system or services, the Contractor shall not supply the system, its major components, or the service unless the Contractor is the sole source, the Contractor has participated in the development and design work, or more than one Contractor has been involved in preparing the work statement. The term of this prohibition shall endure for _____*.

(d) If, under this contract, the Contractor will provide technical evaluation of products or advisory and assistance services, the Contractor shall not provide such services if the services relate to the Contractor's own or a competitor's products or services unless proper safeguards are established to ensure objectivity.

(e) If, under this contract, the Contractor gains access to proprietary or source selection information of other companies in performing advisory assistance services for the Government, the Contractor agrees to protect this information from unauthorized use or disclosure and to refrain from using the information for any purpose other than that for which it was furnished. A separate agreement shall be entered into between the contractor and the company whose proprietary information is the subject of this restriction. A copy of this agreement shall be provided to the Contracting Officer.

(End of Clause)

Single Award (JAN 1999) (NAVSUP) Insert a provision substantially similar to the following in solicitations when split award would not be feasible. Use the basic when award will be made to a single offeror for all contract line items. Use Alternate I in solicitations when single award

of subline items within each contract line item is required. Use Alternate 2 when award will be made to a single offeror on each entire lot.

SINGLE AWARD FOR ALL ITEMS (JAN 1999) (NAVSUP)

Due to the interrelationship of supplies and/or services to be provided hereunder, the Government reserves the right to make a single award to the offeror whose offer is considered in the best interest of the Government, price and other factors considered. Therefore, offerors proposing less than the entire effort specified herein may be determined to be unacceptable.
(End of Provision)

Alternate 1

Subject to the provisions contained herein, award shall be made to a single Offeror for all subline items within each contract line item. Offers must include each subline item listed within a line item. Failure to do this shall be cause for rejection of the offer for that particular line item.

(End of Provision)

Alternate 2

- (a) Award will be made to a single Offeror on each entire lot.
- (b) For the purpose of evaluating offers, each lot indicated below will be considered as a single item and will be awarded only as a unit:

| <u>Lot number</u> | <u>Item number</u> |
|-------------------|--------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

- (c) The Offeror must propose on all items in a lot to be eligible for award of that lot. Award will be made to the responsible Offeror proposing the lowest aggregate price for each lot as designated above; however, the Government reserves the right to award by item within any lot when the Contracting Officer determines that it is advantageous to the Government.
(End of Provision)

Alternate Proposals (JAN 1992) (NAVSUP) Insert a provision substantially similar to the following in solicitations when appropriate. Use Alternate 1 when it is anticipated that offerors may identify technical approaches for fulfilling the contract objectives which are more advantageous than the approach contemplated in the stated requirement. (e.g. research and development solicitations). Use Alternate 2 where technical proposals are required.

ALTERNATE PROPOSALS (JAN 1992) (NAVSUP)

Alternate proposals for design deviations and variations will be considered, provided that if any such deviations are found acceptable, all offerors will be provided an opportunity to propose to any resulting relaxation or alteration of the requirements hereof.
(End of Provision)

Alternate 1

Offerors are encouraged to submit alternate proposals, proposing alternate materials, designs, contract types, etc. and to identify overly stringent, excessive, deficient, or vague requirements of the solicitation. An alternate proposal is one that involves a material departure from the scope of work to accomplish the stated objectives of the solicitation. An alternate proposal may be submitted as an entirely separate proposal depending upon its magnitude and complexity.

(End of Provision)

Alternate 2

Proposals submitted in response to this solicitation may suggest alternative technical approaches to those discussed in the solicitation. To be evaluated, alternate proposals must offer technical improvements or modifications which are to the overall benefit of the Government. Offerors are encouraged to submit alternate proposals containing new ideas, unique approaches or other significant beneficial program improvements. The alternate proposal will be evaluated in accordance with the evaluation criteria. If the alternate proposal is considered most advantageous to the Government, but involves a substantive or material departure from the stated basic proposal requirements or the stated evaluation criteria, all offerors shall be given an opportunity to submit new or amended proposals on the basis of the revised requirements provided this can be done without revealing to the other offerors innovative solutions or techniques or other information entitled to protection from disclosure. The Government reserves the right to award a contract based upon an alternate proposal which meets the Government's technical requirements and is otherwise in accordance with the evaluation and award criteria.

(End of Provision)

Proposal Requirements (JUNE 1994) (NAVSUP) Insert a provision substantially similar to the following in solicitations which require the submittal of competitive technical and cost proposals. *The contracting officer should insert requirements for the specific acquisition.

PROPOSAL REQUIREMENTS (JUNE 1994) (NAVSUP)

(a) The technical proposal and the cost/price proposal shall be submitted in separate volumes. The technical proposal shall not contain any cost/pricing information.

(b) The offeror shall submit the following information:

(1) ___ completed signed solicitation packages, with all representations and certifications executed, and with cost/prices in Section B.

(2) ___ copies of the technical proposal.

(3) ___ copies of the cost/price proposal.

(c) Technical Proposal - Each technical proposal shall enable Government evaluating personnel to make a thorough evaluation and arrive at a sound determination as to whether or not the proposal will meet the requirements of the government. To this end, each technical proposal shall be so specific, detailed and complete as to clearly and fully demonstrate that the prospective Contractor has a thorough knowledge and understanding of the requirements and has valid and practical solutions for technical problems. Statements which paraphrase the specifications or attest that "standard procedures will be employed," are inadequate to demonstrate how it is proposed to comply with the requirements of the specifications, and this clause. As a minimum, the proposal must clearly provide the following:

ANY EXCEPTION TO THE GOVERNMENT'S TECHNICAL REQUIREMENTS OR SPECIFICATIONS MUST BE INCLUDED IN THE TECHNICAL PROPOSAL AND A COVER LETTER TO THE TECHNICAL PROPOSAL.

(d) Cost/Price Proposal - The following cost/price information is required (in addition to any other requirement for cost/price information in clause _____).

(e) Exceptions - Offerors are not encouraged to take exceptions to this solicitation, however, any exceptions taken to the specifications, terms and conditions of this solicitation shall be explained in detail and set forth in a cover letter as well as in this section of the Cost Proposal. Offerors are to detail the particular section, clause paragraph and page to which they are taking exception.

(End of Provision)

Award Fee Evaluation Procedures (JAN 1992) (NAVSUP) The following sample clause may be inserted in cost plus award fee contracts. *The contracting officer should fill in the determining official at the time of award.

AWARD FEE EVALUATION PROCEDURES (JAN 1992) (NAVSUP).

(a) Performance Reports - The _____* shall act as the Fee Determining Official (FDO) and shall designate technical and administrative personnel to observe, examine, review and report on the performance of the Contractor under the proposed contract. Reports covering said performance shall be prepared by said personnel in form and manner prescribed by the FDO.

(b) Performance Evaluation Board (PEB) - The FDO shall appoint a PEB consisting of not less than five members. The Contracting Officer's Representative shall be a member of the PEB. The purpose of the board is to review Contractor performance reports, make recommendations to the FDO concerning evaluation grades, the amount of award fee earned and recommended for payment and the nature, quality and extent of documentation to be furnished to the Contractor concerning his performance. The PEB, in arriving at its recommendation, shall consider not only the contract cost associated with exceptional or substandard performance by the Contractor, but also the estimate of related benefits or costs accruing to the Government. Periodically, but not less than once each quarter, the PEB shall meet and shall review all grades and performance for work performed during the quarter. The PEB shall prepare a preliminary report of grades assigned and award fee earned. The PEB will advise the Contractor of the grades and afford him 15 days in which to submit written comments concerning the preliminary report.

(c) Establishment of Award Fee - Upon approval of the PEB report by the FDO, it will be submitted with necessary funding, to the Contracting Officer to be incorporated into the contract by modification.

(d) The determination as to any amount of award fee to be granted the contractor shall be made by the FDO as soon as possible after the end of each award fee period.

(e) The decision of the FDO with respect to entitlement to award fee, or the amount thereof, shall be final and shall not be subject to the Disputes clause of this contract.

(f) Non-Waiver of Contract Clause - Nothing contained in this section shall be construed to alter, modify, revise, or waive any of provision of this contract.

(End of Clause)

Level of Effort (Fixed Price) (JAN 1999) (NAVSUP) Insert a clause substantially as follows in solicitations and contracts for investigation or study in a specific research and development area. The product of the contract is usually a report showing the results achieved through application of the required level of effort.

LEVEL OF EFFORT (FIXED PRICE) (JAN 1999) (NAVSUP)

(a) The Contractor shall expend the total number of labor-hours set forth for each labor category identified below, unless otherwise required by contract modification:

| <u>CATEGORY OF DIRECT LABOR</u> | <u>LABOR-HOURS</u> |
|---------------------------------|--------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

(b) The Contractor shall be paid the total amount set forth in Section B of the contract upon verification by the Contracting Officer that the Contractor expended the required level of effort

set forth above and that the performance was acceptable. The Contractor may invoice monthly at the fixed billing rates set forth elsewhere in this contract for actual hours expended per labor category.

(c) Performance shall be accomplished in each category by Contractor personnel having qualifications as represented by the Contractor in its proposal, as accepted by the Government.

(d) Final payment under this contract shall not be made prior to certification by the Contractor that the level of effort specified above has been expended in performing the work called for in this contract, and such performance is satisfactory by the Government.

(End of clause)

Contractor Performance Under Task Orders (JAN 1999) (NAVSUP) A clause substantially as follows may be inserted in the cost plus fixed fee solicitations and contracts for engineering and technical services.

CONTRACTOR PERFORMANCE UNDER TASK ORDERS (JAN 1999) (NAVSUP)

The Contractor shall perform as set forth in task orders issued by the Government. Notwithstanding the identification of particular labor categories and the associated labor-hours for each labor category in the task order(s), the Contractor may increase or decrease the labor-hours for designated labor categories as deemed necessary in order to satisfactorily perform the task order. In no event, however, shall the Contractor exceed the total amount of funds in the order, unless such amount is subsequently increased by modification.

(End of clause)

Level of Effort (Cost Plus Fixed Fee) (JAN 1999) (NAVSUP) A clause substantially as follows may be inserted in term (level of effort) cost plus fixed fee, indefinite delivery type solicitations and contracts. If labor usage is other than linear, show hours for each year of performance and modify the clause accordingly. Reports are in addition to CDRL requirements.

LEVEL OF EFFORT (COST PLUS FIXED FEE) (JAN 1999) (NAVSUP)

(a) The level of effort estimated to be ordered during the term of this contract is _____ labor-hours of direct labor, including authorized subcontract labor, if any. The estimated composition of the total labor-hours of direct labor by classification is as follows:

| | <u>LABOR-CATEGORY</u> | <u>LABOR-HOURS CONTRACTOR SITE</u> | <u>LABOR-HOURS GOVERNMENT SITE</u> |
|-------|-----------------------|--|--|
| | _____ | _____ | _____ |
| | _____ | _____ | _____ |
| | _____ | _____ | _____ |
| TOTAL | | _____ | _____ |

The above level of effort is expected to occur over the contract term.

(b) In performing a delivery order, the Contractor may use any combination of hours of the labor categories listed in the delivery order.

(c) Either the "Limitation of Cost" or the "Limitation of Funds" clause, depending upon whether the order is fully funded, applies to each order under this contract and nothing in this clause amends the rights or responsibilities of the parties hereto under either of those two clauses. In addition, the notifications required by this clause are separate and distinct from any specified in either the "Limitation of Cost" or the "Limitation of Funds" clause.

(d) The Contractor shall notify the Contracting Officer immediately in writing whenever there is reason to believe that:

(1) The level of effort the contractor expects to incur under any order in the next 60 days, when added to the level of effort previously expended in the performance of that order, will exceed 75% of the level of effort established for that order; or

(2) The level of effort required to perform a particular order will be greater than the level of effort established for that order.

As part of the notification, the Contractor shall provide the Contracting Officer a revised estimate of the level of effort required to perform the order. As part of the notification, the Contractor shall also submit a proposal for equitable adjustment to the estimated cost and fixed

fee that would cover the increased level of effort. Any such upward adjustment shall be prospective only (i.e., will apply only to effort expended after a modification (if any) is issued). However, whether an increase in fixed fee is appropriate shall depend on the circumstances involved, and, except as otherwise provided in the contract, shall be entirely within the discretion of the Contracting Officer.

(e) Within 30 days after completion of the work under each delivery order, the Contractor shall submit the following information directly, in writing, to the Ordering Officer, the Contracting Officer's Representative and the Defense Contract Audit Agency Office to which vouchers are submitted.

(1) The total number of labor-hours of direct labor, including subcontract labor expended.

(2) A breakdown of this total showing the number of labor-hours expended in each direct labor classification listed in the delivery order schedule, including the identification of key employees utilized.

(3) The Contractor's estimate of total allowable cost incurred under the delivery order.

(4) In the case of a cost underrun, the amount by which the estimated cost of the delivery order may be reduced to recover the excess funds.

(f) In the event that less than 100% of the estimated level of effort for this basic contract is expended; or if said level of effort has been previously revised upward, of the fee bearing portion of the additional hours by which the level of effort was last increased; or is actually expended by the completion date of the contract, the Government shall have the option of:

(1) Requiring the Contractor to continue performance, subject to the provisions of the "Limitation of Cost" clause, or, as applicable, the "Limitation of Funds" clause, until the effort expended equals 100% of the original level of effort or of the fee bearing portion of the last upward revision; or

(2) Effecting a reduction in the fixed fee by the percentage by which the total labor-hours is less than 100% of the original level of effort or the fee bearing portion of the last upward revision.

(g) In the event that the incurred level of effort exceeds 3% of the delivery order requirement, but does not exceed the estimated cost of the contract, the Contractor shall be entitled to cost reimbursement for actual hours expended, not to exceed the ceiling cost. The Contractor shall not be paid a fixed fee, however, on the level of effort in excess of 100% without complying with paragraph (d) above. This understanding does not supersede or change subsection (d) above, whereby the Contractor and Government may agree on a change to the delivery order level of effort with an equitable adjustment of both the cost and fee. Further, the Contractor shall not exceed 100% of the total level of effort specified in the basic contract.

(End of clause)

Fee, Cost Plus Fixed Fee Indefinite Quantity Type Contracts (OCT 1995) (NAVSUP) A clause substantially as follows may be inserted in cost plus fixed fee, indefinite quantity contracts.

FEE, COST PLUS FIXED FEE INDEFINITE QUANTITY TYPE CONTRACTS (OCT 1995)
(NAVSUP).

The percentage of the fee applicable to orders will be the same as the percentage of the fee established in the basic contract.

(End of clause)

Management Proposal (JAN 1992) (NAVSUP) Insert the following provision in solicitations when a description of the offeror's management plan is required. *The contracting officer is to insert the applicable Volume number.

MANAGEMENT PROPOSAL (JAN 1992)

(a) The following information shall be included in Volume ____* of your offer. This information is required to facilitate an evaluation and comparison of your qualifications with other firms submitting proposals:

(1) A description of the management and administrative organization available or to be established for the supervision, and assurance of expeditious and economical performance of the services required under the proposed contract, including a sample work structure chart by job classification and code.

(2) Information concerning your firm's experience in performance of Government contracts for similar services of the variety and magnitude set forth in the request for proposal. This information should include data as to the scope of work required under such contracts, the term of said contracts, number and types of personnel furnished, the procuring agencies contracted with, contract numbers, and any other applicable information.

(3) Resumes for the key personnel proposed to be furnished under the proposed contract shall include the following information:

(i) Name and education background.

(ii) Employment history giving the name of each employer, the period of employment and title.

(iii) Experience history of applicable experience only. Include name of company period of time of experience, description of duties, level of responsibility, and title.

(iv) Experience history or such other experience as the company may wish to present to show the potential of the candidate. The same information as for applicable experience should be indicated.

(v) Each resume must indicate whether it is for a current employee of your firm or a proposed new hire.

(4) Information as to the numbers and types of personnel currently employed on a permanent basis and available during peak load periods on a temporary basis.

(5) Names, positions and level of security clearance for managerial and key personnel proposed for liaison and contract management.

(6) The amount of time required from notification of contract award, to establish a capability of assuming complete responsibility for furnishing all services to be accomplished under the proposed contract.

(b) No cost information shall be included in Volume ____*.

(End of Provision)

Alternate I. Add the following paragraphs (c) and (d) to the basic clause as appropriate.

(c) The labor category qualifications set forth in the request for proposal are minimum requirements. Proposals offering personnel who do not meet these minimum requirements may be rejected as unacceptable.

(d) The Management Proposal shall include a Phase-In Plan. The Phase-In Plan should indicate a clear understanding of the problems involved in phase-in of a new contractor and present rationale and reasonable solutions to these problems. It should include a clear and feasible plan for obtaining all resources required (manpower, equipment, finances) within a minimum period of time after contract award. Evaluation of this area shall consider the following factors:

- (1) Employee recruitment
- (2) Phase-in of key personnel.
- (3) Interface with the Navy during phase-in to include meetings or status reports as considered necessary.
- (4) Equipment acquisitions.
- (5) Supervision of Phase-in.
- (6) Manning of Phase-in.
- (7) Development and dissemination of operating instructions, procedures, and control directives.
- (8) Initial training, indoctrination and orientation of employees.
- (9) Transfer of Government furnished property.
- (10) Plans for facility lease/acquisition.

(End of Provision)

Low Cost Technically Acceptable Evaluation (JAN 1999) (NAVSUP) Insert a provision substantially similar to the following in solicitations when award will be based on low cost technically acceptable award criteria. *The contracting officer shall identify factors in descending order of importance. **The contracting officer will indicate in cost type solicitations if material costs are estimated in Section B. The contracting officer will indicate in time and material or labor hour solicitations that the total evaluated price will be derived by the sum of the following: (1) multiplying each offeror's proposed rate for each labor category times the number of man-hours for that labor category set forth in Section B for all items or lots. (2) other direct costs (ODC)(as specified by the Government in Section B) require offerors to state if they are proposing the application of a material handling rate of G&A on other direct costs. If so proposed, these burdens will be applied to the total other direct costs, and the total ODCs plus material handling rate and/or G&A will be used for evaluation purposes.

LOW COST TECHNICALLY ACCEPTABLE EVALUATION (JAN 1999) (NAVSUP)

(a) The contract resulting from this solicitation will be awarded to that responsible offeror submitting a technically acceptable proposal with the lowest evaluated estimated price.

(b) Technical acceptability will be determined in accordance with the following evaluation factors and significant subfactors, if any, based on information submitted in response to the provision entitled "Technical Proposals". To be determined technically acceptable, the offeror must be technically acceptable in each of the areas identified by the following evaluation factors and significant subfactors:

EVALUATION FACTORS AND SIGNIFICANT SUBFACTORS

(In descending order of importance)

 ** In evaluating offers the Contracting Officer will perform a cost realism evaluation; a summary level review of the cost portion of the offeror's proposal. The purpose of the evaluation is to:

- (1) verify the offeror's understanding of the requirements;

**PROPOSED ADDITION, DELETION OR CHANGE TO
NAVSUP PUBLICATION**

From: (Activity)

To: Commander, Naval Supply Systems Command

Subj: (STATE TYPE OF ACTION REQUESTED)

1. (Purpose of Request)
2. (Discussion of Problem)
3. (Recommended Change and Supporting Rationale)
4. (Activity Point of Contact and Telephone Number)

FORMAT FOR FEDERAL REGISTER NOTICE

DEPARTMENT OF DEFENSE

Department of the Navy

Intent To Seek Approval Of (Insert general topic of clause (e.g., A Hazardous Material)) **Clause**

The Department of the Navy intends to seek approval of the Under Secretary of Defense (Acquisition) for use of the following clause:

(Insert clause text)

(Following the text of the clause, the activity must provide a brief summary which explains the purpose of the clause, the anticipated effect of approving it and the types of solicitations and/or contracts in which it will be used (if approved). The summary is not the appropriate place for the activity to prove a point or to argue the necessity of the clause.)

Pursuant to 41 U.S.C., 418b, public comments are solicited. Of particular interest, is the potential cost or administrative impact of the proposed clause on offerors or contractors. Written comments or questions should be addressed to: (Insert the name of the activity advertising the clause and the appropriate code within that activity, the point of contact, and a telephone number where he/she can be reached.)

To allow time for review and forwarding of the notice to the Office of the Federal Register, the activity should type the following sentence so that the Office of the Federal Register will compute the date by which comments must be received:

Written comments must be submitted on or before (Insert date 30 days after date of publication in the FEDERAL REGISTER).